

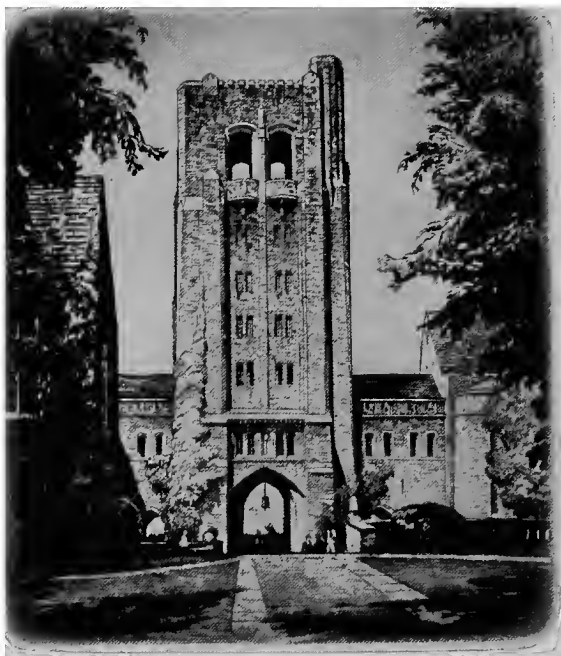
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ELECTIONS

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THE PRACTICE
AT
Parliamentary Elections,
AND
THE LAW RELATING THERETO:
WITH AN APPENDIX OF STATUTES.

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P R E F A C E.

THIS little work has been written with the view of furnishing Returning Officers, Candidates, and Agents with a handy treatise on the law relating to Parliamentary Elections, from the issue of the writ to the publication of a summary of the Candidate's election expenses by the Returning Officer.

The book has been divided into two parts, the First dealing with Returning Officer and his Staff, the Second with the Candidate, Election Agent, and his Staff.

To the First Part has been prefixed a summary of the duties of the Returning Officer in chronological order, with references to the body of the work, where fuller information may be obtained. This arrangement, it is hoped, may enable the Returning Officer to ascertain with ease what is to be done at any particular juncture in the progress of an election, and how it should be done. A similar summary has also been prefixed of the duties of Presiding Officers and Clerks

with the portions of various statutes relating to offences which may be committed during the polling.

At the end of the First Part is added an alphabetical list of the Returning Officer's charges (now an important matter), and several tables showing at a glance the amount of such charges when they depend upon the number of electors in the constituency.

Part II. deals with the law relating to the Candidate and those whom he entrusts with the management of his election. As it is a matter of importance that a Candidate should know whether either he himself or his opponent labours under any disqualification, an alphabetical list has been inserted (see p. 95) of various persons prohibited from sitting in the House of Commons, and another list of those who, though holding some office of profit, have been declared eligible to Parliament. A table has also been framed showing the maximum amount a candidate may lawfully expend on his election, and tabular statements of various corrupt practices have been appended.

The Returning Officers' Expenses Act, 1875, Corrupt and Illegal Practices Prevention Act, so far as it relates to procedure at elections, and the various Acts relating to election law, passed in the Session just closed, have been printed in an Appendix.

To enable those consulting the book to discover as easily as possible the information they seek, the headings of the more important paragraphs have been printed either in Ionic or Italic type, and a copious Index has been added.

At the end of the work (p. 246, *et seq.*) specimens of disputed ballot papers adjudicated upon in the case of *Woodward v. Sarsons*, taken from Parliamentary Paper, No. 162 of 1876, have been added, which, it is hoped, may materially lessen discussion during the process of counting. A Select Committee of the House of Commons, appointed to inquire into the working of the Ballot Act, 1872, recommended that this case and the judgment thereon should be sent to every Returning Officer.

By the Parliamentary Elections Act, 1868, the trial of election petitions has been transferred to the Judges of the High Court, and to denote that a case has been tried before a judge or judges, the year of trial has been added in brackets.

D. W.

TEMPLE,

September, 1885.

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ABBREVIATIONS.

- A. & E...Adolphus and Ellis's Reports.
Bar. & Arn...Barron and Arnold's Election Reports.
Bar. & Aust...Barron and Austin's Election Reports.
C. & D...Corbett and Daniell's Election Reports.
C. P. D...Law Reports, Common Pleas Division.
C. & R...Cockburn and Rowe's Election Reports.
Cliff...Clifford's Southwark Election Reports.
Doug...Douglas's Election Cases.
E. & B...Ellis and Blackburn's Reports.
F. & F...Falconer and Fitzherbert's Election Reports.
Glanv...Glanville's Election Reports.
H. L. C...House of Lords' Cases.
Ir. R. C. L...Irish Reports, Common Law.
Journ...Journals of the House of Commons.
J. P...Justice of the Peace.
K. & O...Knapp and Omblor's Election Reports.
L. R. C. P...Law Reports, Common Pleas.
L. R. Q. B...Law Reports, Queen's Bench.
L. T. (N.S.)...Law Times Reports, New Series.
Lud...Luder's Election Reports.
O'M. & H...O'Malley and Hardcastle's Election Reports.
P. & K...Perry and Knapp's Election Reports.

- P. P...Parliamentary Paper (*a*).
P. R. & D...Power, Rodwell and Dew's Election Reports.
Peck...Peckwell's Election Reports.
Q. B...Queen's Bench Reports.
Q. B. D...Law Reports, Queen's Bench Division.
T. R...Term Reports.
W. & B...Wolferstan and Bristowe's Election Reports.
W. & D...Wolferstan and Dew's Election Reports.
W. R...Weekly Reporter.
-

(*a*) The judgments of the judges reported by the official reporter of the House of Commons (31 & 32 Vict. c. 125, s. 24) and printed by order of the House of Commons. The mode of quotation has been to give first the number of the paper and then the year; 120—69 means paper No. 120 of the year 1869, and so of the others.

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PARLIAMENTARY ELECTIONS.

A SUMMARY OF THE RETURNING OFFICER'S DUTIES CHRONOLOGICALLY ARRANGED.

Address. Every returning officer must send the correct postal address of his office for the receipt of writs to the Postmaster-General (p. 11). Returning officers having offices in the cities of London and Westminster, the borough of Southwark, or within five miles thereof, must send the addresses of such offices to the Messenger of the Great Seal (p. 10).

Proceedings on Receipt of Writ. The returning officer or his deputy must give to the officer who delivers the writ a receipt showing the day and hour on which it was delivered (p. 11).

The returning officer must also endorse on the writ the day on which he receives it (p. 11).

Give notice of election (p. 11). Manner of giving (p. 15).

In *county* elections the returning officer must send a copy of the notice of election to the postmaster of the principal post-office in each polling place (p. 12).

The returning officer must provide forms of nomination papers, and supply one to any registered elector who may require it (p. 15).

The Nomination. The returning officer must attend at the place fixed for the nomination to receive the nomination papers (p. 17): On receipt of a nomination paper he must cause the name of the candidate, and of his proposer and seconder, to be placarded outside the building (p. 19).

Decide objections (if any) to nomination papers (p. 21).

Give notice of any candidate who withdraws or is withdrawn during the nomination, and the names of the persons who subscribed his nomination paper (p. 20).

Take security for his expenses (p. 22). Amount of such security (p. 67).

If no more candidates are nominated than there are vacancies, declare such candidates elected, and make the return to the Clerk of the Crown (p. 21).

Adjournment of the Election. If more candidates are nominated than there are vacancies, the returning officer must adjourn the election for the purpose of taking the poll (p. 22).

The returning officer must give notice of the polling day, of the candidates nominated, and of the persons subscribing each nomination paper, and in the case of a *county* election he must deliver to the principal postmaster of the town a paper signed by himself containing the names of the candidates nominated and the day on which the poll will be taken (p. 22).

The returning officer must give notice of the name, address, and situation of the office of every election agent (p. 23).

Provide polling stations (p. 24), and give notice of their situation, and of the description of persons entitled to vote thereat (p. 26).

Provide secret compartments (p. 27), ballot boxes (p. 29), stamping instruments (p. 28), ballot papers (p. 29), register of voters (p. 28), and stationery.

The returning officer himself must make the declaration of secrecy before a justice of the peace (p. 32).

He must appoint presiding officers (p. 30), clerks (p. 30), and counting assistants (p. 31). These must make the declaration of secrecy either before the returning officer or a justice of the peace (p. 32).

Provide constables for each polling station (p. 31).

He must give notice of the names, addresses, and situation of the offices of the sub-agents (if any) (p. 33).

Determine the time and place at which the ballot papers will be counted, and give notice thereof to the counting agents of the candidates (p. 34).

Polling Day. Exercise general supervision over the manner in which the poll is being taken, and see that the provisions of the Ballot Act are being carried out.

Attend at the appointed place to receive the ballot boxes and accompanying documents from the presiding officers (p. 54).

Counting the Votes. The returning officer must count and record the number of ballot papers in each ballot box (p. 55).

Mix the ballot papers from the different boxes together (p. 55).

Count the votes given for each candidate.

Decide objections to ballot papers (p. 56).

Report to Clerk of the Crown on disallowed ballot papers (p. 57).

Declare the candidates with a majority of votes elected (p. 60).

The Return. Deliver the writ with the names endorsed to the postmaster of the principal post office for transmission to the Clerk of the Crown (p. 60). Take the postmaster's receipt (p. 60). Give public notice of the candidates elected and the number of votes given for each candidate (p. 62).

Verify the "Ballot Paper Account" of each presiding officer (p. 63). Make up and seal the various packets, endorse thereon the contents and election ; deliver these documents to the postmaster for transmission to the Clerk of the Crown, and take his receipt (p. 63).

Write to the Clerk of the Crown, advising him of the transmission of the ballot papers, &c. (p. 64).

Payment of Expenses. Pay claims which must be sent in within fourteen days after the election (p. 68). See Schedule at p. 71; Alphabetical List at p. 78.

Must claim payment from the candidate within twenty-one days (p. 68).

Accounts of Election Expenses. A return of the expenses of each candidate must be sent to the returning officer within thirty-five days after the election (pp. 70, 110). Returning officer must within ten days after the receipt publish the accounts in at least two newspapers (p. 70).

The returning officer must keep these accounts for two years, and allow them to be inspected on payment of 1s. Copies of the whole or any portion must be furnished on payment at the rate of 2d. for every seventy-two words (p. 71).

INSTRUCTIONS TO PRESIDING OFFICERS AND CLERKS (a).

The presiding officer and clerk must be at the polling station at ten minutes before 8 o'clock in the morning.

The only persons entitled to attend at the polling station are the presiding officer, the clerk, the agents of the candidates, of whose appointment notice has been given to the returning officer, the candidates themselves, and the constables on duty (p. 35).

Contents of Ballot Box. The ballot box, addressed to the presiding officer, will be delivered at the polling station before . . . , containing :—

Ballot papers, with counterfoils, in book (p. 29).

Tendered ballot papers, with counterfoils (on coloured paper) in a book (p. 42).

A stamping instrument (the official mark) (p. 28).

A polling district list, containing the names of the voters allotted to vote at the polling station. No vote must be taken from any person not named in such list (pp. 28, 43). As to mistakes in list of voters, see p. 46.

A list of the places in the polling district, and a list of the several polling districts (p. 26).

Pencils.—The clerk will attach one pencil by a piece of string to a nail in each compartment, and will see that all pencils continue so attached, and also keep the same pointed.

Stationery.—Sealing wax, and taper matches.

(a) These instructions are issued in a separate form.

Ballot. The ballot must commence at eight o'clock a.m. (p. 39), and close at eight o'clock p.m. precisely (pp. 51, 52). The poll cannot be re-opened if *closed* (p. 40). In case of *riot* it should be adjourned (p. 36). Where there is confusion in the polling station the issue of ballot papers should be suspended until the room is cleared (p. 40).

Just before the commencement of the poll the presiding officer must show the ballot box empty to such persons as may be present, and then lock it up and seal it, place it before him, and keep it in his view (p. 39).

When the voter comes up to vote, the clerk will ascertain his name, and having found it on the polling district list, he will call out the number, or letter and number, name, and qualification of the voter as it appears in the list (p. 40).

The presiding officer or clerk will then :—

Enter the voter's number or letter and number on the counterfoil of the ballot paper (p. 40).

Tear off the ballot paper, mark it with the official mark, which should be impressed on the right-hand margin, and deliver the ballot paper to the voter, *having first folded it in three*.

The clerk will then place against the number of the voter in the polling district list, a tick to denote that the voter has received a ballot paper (p. 40).

The voter, having received his ballot paper, must proceed at once to one of the compartments; there secretly place on his ballot paper a **X** on the right hand side opposite the name of each candidate for whom he votes; fold up the ballot paper so as to conceal the marks which he has made, but so as to leave the official mark visible on the back, and take it so folded (without showing the front of the paper to any person) to the presiding officer himself (p. 41); show him the official mark on the back; place the ballot paper in the ballot box, and immediately leave the station (p. 41).

The presiding officer must, if requested to do so by a polling agent, put to any voter at the time of his applying for a ballot paper, but not afterwards, the questions, or one of them (but no other), printed on the card provided (p. 43 n.)

And no person required to answer either of the said questions shall be permitted, or qualified, to vote until he has answered the same (p. 45).

If a voter *accidentally* spoils a ballot paper he may return it to the presiding officer, who shall mark it "Cancelled," and give him another (p. 41).

Illiterates, and Voters Incapacitated by Blindness, &c. If a voter states that he is unable to read, the presiding officer will administer to him the "Declaration of inability to read," and in the presence of the polling agents (if in attendance), cause the vote of such voter to be marked on a ballot paper in manner directed by such voter, and place the paper in the ballot box (p. 41).

[The declaration must be read by the presiding officer to the voter, signed by the voter with his mark, attested by the presiding officer, and kept by him to be sent to the returning officer] (p. 42).

If a voter is incapacitated by blindness or other physical cause from marking his vote, or (if the poll be taken on Saturday) any voter declares that he is of the Jewish persuasion and objects on religious grounds to vote in the manner prescribed by the Ballot Act, 1872, the presiding officer will, at his request, mark his ballot paper for him, in the presence of the agents, and put it in the ballot box.

The presiding officer must immediately enter on "*the list of votes marked by the presiding officer*," the name and number of each voter for whom he marks a ballot paper, and the reason for so marking it (p. 42).

Tendered Ballot Papers. If a person representing himself to be a particular voter named on the register of voters

for a polling district applies for a ballot paper after another person has voted as such voter, the applicant shall, upon duly answering the questions, and taking the oath or making the affirmation, be entitled to mark a "tendered ballot paper," which, instead of being put into the ballot box, shall be given to the presiding officer and endorsed by him with the name of the voter and his number on the list, and set aside in a separate packet; and the name and number of the voter shall be entered on the "tendered votes list" (p. 42). As to personation, see pp. 46—51.

Close of the Poll. The presiding officer, at the close of the poll, will close the aperture on the top of the ballot box, and seal it, pass a tape through the loop on the front of the box, and seal it, and having first filled up the statement of the number of voters whose votes are marked by the presiding officer, and the ballot paper account, will, in the presence of the personation agents, if in attendance, make up into separate packets, sealed with his own seal, and the seals of such agents as desire to affix their seals (p. 53):—

- (1.) The ballot box unopened, but with the key attached.
- (2.) The unused and spoilt ballot papers placed together.
- (3.) The tendered ballot papers.
- (4.) {
 - (4a.) The marked copy of the register for the polling district.
 - (4b.) The counterfoils of the ballot and tendered ballot papers.

These two sealed in separate envelopes and then enclosed in No. 4.

- (5.) The tendered votes list. The list of votes marked by the presiding officer. The statement of the number of voters whose votes are so marked, and the declarations of inability to read.

- (6.) The "ballot paper account" to be made up by the presiding officer, showing the number of ballot papers entrusted to him, and accounting for them under various heads.

NOTE.—For the purpose of making up the unused ballot papers and the counterfoils of the used ballot papers into separate packets (see Nos. 2 and 4), it will be necessary to sever the UNUSED ballot papers from the counterfoils of the USED ballot papers.

Immediately after the close of the poll the presiding officer will take the ballot box, the separate packets, the stamping instrument,* and other appliances used in the election, to the office of the returning officer at who will be in waiting there to receive them (p. 54). *The cost of these articles will be charged to the presiding officer if not duly returned.*

Powers and Duties of Presiding Officers. The presiding officer may delegate to his clerk any of his powers, except that of ordering the arrest, exclusion, or ejection from the polling station of any person (p. 35).

It is his duty to see that secrecy of voting is strictly maintained, to prevent unauthorized persons from entering the station, to direct the constables on duty only to admit a limited number of voters at any one time, and to see that each voter votes secretly, in accordance with the Act, and without undue delay, and leaves the station immediately after giving his vote (p. 35.)

The presiding officer must take care that no person interferes with the voter while he is giving his vote, puts into the ballot box any paper which has not the official mark on the back, takes a ballot paper out of the station, or otherwise infringes the provisions of sections 3 and 4 (p. xxxii) of the Ballot Act. If any person attempts to put into the ballot box any ballot paper which has not the official mark on the back, or to take any ballot paper out of the station, or in any other way to infringe the provisions of sections 3

and 4 of the Ballot Act, the presiding officer should order him to be arrested, or, at all events, removed (p. 32).

If any person misconducts himself in the polling station, or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer, be removed from the polling station by any constable in or near that station, or any other person authorized *in writing* by the returning officer to remove him ; and the person so removed shall not, unless with the permission of the presiding officer, again be allowed to enter the polling station during the day (p. 35).

Any person so removed as aforesaid, if charged with the commission in such station of any offence, may be kept in custody until he can be brought before a justice of the peace (p. 36).

But these powers are not to be exercised so as to prevent any elector who may be otherwise entitled to vote at any polling station from having an opportunity of voting at such station (p. 36).

OFFENCES AT ELECTIONS.

5 & 6 WILL. 4, CAP. 36.

8. *Riot.*—That where the proceedings at any election shall be interrupted or obstructed by any riot or open violence, whether such proceedings shall consist of the nomination of candidates, or of the taking the poll, the sheriff or other returning officer, or the lawful deputy of any returning officer, shall not for such cause terminate the business of such nomination, nor finally close the poll, but shall adjourn the nomination or the taking the poll at the particular polling place or places at which such interruption or obstruction shall have happened until the following day, and, if necessary, shall further adjourn such nomination or poll, as the case may be, until such interruption or obstruction shall have ceased, when the returning officer or his deputy shall again proceed with the business of the nomination, or with the taking the poll, as the case may be, at the place or places at which the same respectively may have been interrupted or obstructed, and the day on which the business of the nomination shall have been concluded shall be deemed to have been the day fixed for the election, and the commencement of the poll shall be regulated accordingly ; and any day whereon the poll shall have been so adjourned shall not as to such place or places be reckoned the day of polling at such election within the meaning of this Act, and whenever the poll shall have been so adjourned by any deputy of any sheriff or other returning officer, such deputy shall forthwith give notice of such adjournment to the sheriff or returning officer, who shall not finally declare the state of the poll, or make proclamation of the member or members chosen

until the poll so adjourned at such place or places as aforesaid shall have been finally closed, and the poll books delivered or transmitted to such sheriff or other returning officer, anything hereinbefore or in any other statute to the contrary notwithstanding ; provided always that this Act shall not be taken to authorize an adjournment to a Sunday, but that in every case in which the day to which the adjournment would otherwise be made shall happen to be a Sunday, Good Friday, or Christmas Day, that day or days shall be passed over, and the following shall be the day to which the adjournment shall be made.

6 VICT. CAP. 18.

85. That it shall be lawful for any candidate, at any election of a member or members to serve in parliament for any county, city, or borough, previous to the time fixed for taking the poll at such election, to nominate and appoint an agent or agents on his behalf to attend at each or any of the booths appointed for taking the poll at such election, for the purpose of detecting personation ; and such candidate shall give notice in writing to the returning officer, or his respective deputy, of the name and address of the person or persons so appointed by him to act as agents for such purpose ; and thereupon it shall be lawful for every such agent to attend during the time of polling at the booth or booths for which he shall have been so appointed.

86. That if at the time any person tenders his vote at such election, or after he has voted, and before he leaves the polling booth, any such agent so appointed as aforesaid shall declare to the returning officer, or his respective deputy, presiding therein, that he verily believes, and undertakes to prove, that the said person so voting is not in fact the person in whose name he assumes to vote, or to the like effect, then and in every such case it shall be lawful for the said returning officer, or his said deputy, and

he is hereby required, immediately after such person shall have voted, by word of mouth to order any constable or other peace officer to take the said person so voting into his custody, which said order shall be a sufficient warrant and authority to the said constable or peace officer for so doing.

Provided always that nothing herein contained shall be construed or taken to authorize any returning officer or his deputy to reject the vote of any person who shall answer in the affirmative the questions authorized by this Act to be put to him at the time of polling, and shall take the oaths or make the affirmations authorized and required of him ; but the said returning officer, or his deputy, shall cause the words "protested against for personation," to be placed against the vote of the person so charged with personation when entered in the poll book.

87. That every such constable or peace officer shall take the person so in his custody, at the earliest convenient time, before some two justices of the peace acting in and for the county, city, or borough within which the said person shall have so voted as aforesaid : Provided always, that in case the attendance of two such justices as aforesaid cannot be procured within the space of three hours after the close of the poll on the same day on which such person shall have been so taken into custody, it shall be lawful for the said constable or peace officer, and he is hereby required, at the request of such person so in his custody, to take him before any one justice of the peace acting as aforesaid, and such justice is hereby authorized and required to liberate such person on his entering into a recognizance, with one sufficient surety, conditioned to appear before any two such justices as aforesaid, at a time and place to be specified in such recognizance, to answer the said charge ; and if no such justice shall be found within four hours after the closing of the said poll, then such person shall forthwith be discharged from custody :

Provided also, that if in consequence of the absence of such justices aforesaid, or for any other cause, the said charge cannot be inquired into within the time aforesaid, it shall be lawful nevertheless for any two such justices as aforesaid to inquire into the same on the next or on some other subsequent day, and, if necessary, to issue their warrant for the apprehension of the person so charged.

35 & 36 VICT. CAP. 33.

3. Every person who—

- (1) Forges or fraudulently defaces or fraudulently destroys any nomination paper, or delivers to the returning officer any nomination paper, knowing the same to be forged ; or
- (2) Forges or counterfeits or fraudulently defaces or fraudulently destroys any ballot paper, or the official mark on any ballot paper ; or
- (3) Without due authority supplies any ballot paper to any person ; or
- (4) Fraudulently puts into any ballot box any paper other than the ballot paper which he is authorized by law to put in ; or
- (5) Fraudulently takes out of the polling station any ballot paper ; or
- (6) Without due authority destroys, takes, opens, or otherwise interferes with any ballot box, or packet of ballot papers then in use for the purposes of the election ;

shall be guilty of a misdemeanor, and be liable, if he is a returning officer or an officer or clerk in attendance at a polling station, to imprisonment for any term not exceeding two years with or without hard labour ; and if he is any other person, to imprisonment for any term not exceeding six months, with or without hard labour.

Any attempt to commit any offence specified in this

section shall be punishable in the manner in which the offence itself is punishable.

In any indictment or other prosecution for an offence in relation to the nomination papers, ballot boxes, ballot papers, and marking instruments at an election, the property in such papers, boxes, and instruments may be stated to be in the returning officer at such election, as well as the property in the counterfoils.

4. Every officer, clerk, and agent in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting in such station, and shall not communicate, except for some purpose authorized by law, before the poll is closed, to any person any information as to the name or number on the register of voters of any elector who has or has not applied for a ballot paper or voted at that station, or as to the official mark; and no such officer, clerk, or agent, and no person whosoever, shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain in the polling station information as to the candidate for whom any voter in such station is about to vote or has voted, or communicate at any time to any person any information obtained in a polling station as to the candidate for whom any voter in such station is about to vote or has voted, or as to the number on the back of the ballot paper given to any voter at such station. Every officer, clerk, and agent in attendance at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting, and shall not attempt to ascertain at such counting the number on the back of any ballot paper, or communicate any information obtained at such counting as to the candidate for whom any vote is given in any particular ballot paper. No person shall directly or indirectly induce any voter to display his ballot paper after he shall have marked the same, so as to make known to any person the name of the candidate for or against whom he has so marked his vote.

Every person who acts in contravention of the provisions of this section shall be liable, on summary conviction before two justices of the peace, to imprisonment for any term not exceeding six months, with or without hard labour.

9. If any person misconducts himself in the polling station, or fails to obey the lawful orders of the presiding officer, he may immediately, by order of the presiding officer, be removed from the polling station by any constable in or near that station, or any other person authorized in writing by the returning officer to remove him: and the person so removed shall not, unless with the permission of the presiding officer, again be allowed to enter the polling station during the day. Any person so removed as aforesaid, if charged with the commission in such station of any offence, may be kept in custody until he can be brought before a justice of the peace. Provided that the powers conferred by this section shall not be exercised so as to prevent any elector who is otherwise entitled to vote at any polling station from having an opportunity of voting at such station.

RULES.

21. The returning officer shall appoint a presiding officer to preside at each station, and the officer so appointed shall keep order at his station, shall regulate the number of electors to be admitted at a time, and shall exclude all other persons except the clerks, the agents of the candidates, and the constables on duty.

50. The presiding officer may do, by the clerks appointed to assist him, any act which he is required or authorized to do by this Act at a polling station except ordering the arrest, exclusion, or ejection from the polling station of any person.

TIME TABLE.

Sundays, Christmas Day, Good Friday, Public Fast Days and Public Thanksgiving Days are not reckoned.
COUNTRIES AND DISTRICT BOROUGH (a).

Receipt of Writ, Notice of Election and Nomination.

| | |
|---|----------------------------------|
| Notice of Election may be given on the same day as receipt of writ, in which case the Nomination may be on the | Day after receipt of Writ. |
| Notice of Election may be given on the day after receipt of writ, in which case the Nomination may be on the | 4th, 5th, 6th, 7th, 8th, or 9th. |
| Notice of Election may be given on the 2nd day after receipt of writ, in which case the Nomination may be on the | 5th, 6th, 7th, 8th, 9th. |
| | 6th, 7th, 8th, 9th. |

Nomination and Polling Days.

| | |
|---|-------------------------------|
| If the Nomination is held on the 4th day after receipt of writ, the Poll may take place on the | Day after receipt of Writ. |
| If the Nomination is held on the 5th day after receipt of writ, the Poll may take place on the | 7th, 8th, 9th, 10th, 11th. |
| If the Nomination is held on the 6th day after receipt of writ, the Poll may take place on the | 8th, 9th, 10th, 11th, 12th. |
| If the Nomination is held on the 7th day after receipt of writ, the Poll may take place on the | 9th, 10th, 11th, 12th, 13th. |
| If the Nomination is held on the 8th day after receipt of writ, the Poll may take place on the | 10th, 11th, 12th, 13th, 14th. |
| If the Nomination is held on the 9th day after receipt of writ, the Poll may take place on the | 11th, 12th, 13th, 14th, 15th. |
| | 12th, 13th, 14th, 15th, 16th. |

(a) In District Boroughs, notice of election must be given on day of receipt of writ or day after.

BOROUGHs OTHER THAN DISTRICT BOROUGHs.

Receipt of Writ, Notice of Election, and Nomination.

| | | |
|--|-----|----------------------------|
| Notice may be given on the same day as the receipt of writ, in which case the Nomination may be on the ... | ... | Day after receipt of Writ. |
| ... | ... | 3rd or 4th. |
| Notice may be given on the day after the receipt of writ, in which case the Nomination may be on the ... | ... | 4th. |

Nomination and Polling Days.

| | | |
|---|-----|----------------------------|
| If the Nomination is held on the 3rd day after the receipt of writ, the Poll may take place on the ... | ... | Day after receipt of Writ. |
| ... | ... | 4th, 5th, 6th, 7th. |
| If the Nomination is held on the 4th day after the receipt of writ, the Poll will take place on the ... | ... | 5th, 6th, 7th, 8th. |

| | | |
|---|-----|--------------------|
| Notice of Election must be given between .. | ... | 9 A.M. and 4 P.M. |
| Hours for supplying Nomination Papers any two hours between | ... | 10 A.M. and 2 P.M. |
| Hours for Nomination any two hours between ... | ... | 10 A.M. and 3 P.M. |
| Hours of Poll ... | ... | 8 A.M. to 8 P.M. |

PARLIAMENTARY ELECTIONS.

PART I.

THE RETURNING OFFICER AND HIS DUTIES.

CHAPTER I.

RETURNING OFFICERS.

The Sheriff. The sheriff of each county, county of a city, or county of a town within the United Kingdom, is the returning officer. Where a county, or county of a city or town, is divided for the purposes of parliamentary representation, the sheriff (*a*) is returning officer for each division.

In *Scotland* the sheriff of the county is also returning officer for the parliamentary burghs within his county. The returning officers for the various districts of burghs are specified in Schedule L. of the Scotch Reform Act, 1832 (2 & 3 Will. 4, c. 65). The sheriff of Roxburghshire is the returning officer for the Hawick burghs. 31 & 32 Vict. c. 48, sched. A.

(*a*) The sheriffs of London and Middlesex are the returning officers for the city of London and county of Middlesex.

The sheriff of the Isle of Wight or his deputy is the returning officer for that constituency, 2 & 3 Will. 4, c. 45, s. 16.

In *Ireland* the returning officer for those boroughs, in which there is no mayor, and which are not counties of cities or towns, is the sheriff of the county in which the whole or greatest part of the borough is situate. 3 & 4 Vict. c. 108, s. 84; 22 Vict. c. 14, s. 1.

In *England* and *Ireland*, whenever from temporary vacancy or some other cause there is no person duly qualified to perform the duties of returning officer for a borough, city, or town, the sheriff of the county in which such place is situate is charged with the execution of the writ, and must do all things incidental to the office of returning officer. He must not receive or execute any writ, however, unless there shall be no person qualified and competent to act as returning officer in such borough. 17 & 18 Vict. c. 57, s. 1 (*England*); 25 & 26 Vict. c. 92, s. 3 (*Ireland*).

Death of sheriff.—In *England* if the high sheriff die before he be lawfully superseded his under sheriff is answerable for the execution of the writ. 3 Geo. 1, c. 15, s. 8.

In the *Pembrokeshire case*, 11 Journ. 338, the sheriff died on the day the writ was received, and, on application, the House ordered a fresh writ to issue. It seems clear, however, that since the passing of the above statute (3 Geo. 1, c. 15), it is the under sheriff's duty to proceed with the execution of the writ already issued, and not to apply for a fresh one.

In *Ireland*, in case of the death or severe illness of the sheriff during the poll, the first sworn deputy must proceed with it under a penalty of 500*l.*, and he is authorized to act as if he had been the original returning officer. His authority, however, is superseded by the recovery of the sheriff. If both the sheriff and first sworn deputy be prevented from acting by death or severe illness, the second sworn deputy is required to carry on the election with like powers, under a similar penalty, and so on. 60 Geo. 3 & 1 Geo. 4, c. 11, s. 24; 4 Geo. 4, c. 55, s. 67.

In *Scotland* when a sheriff is *dead* or *has resigned*, the ordinary substitute at the head burgh of the shire must act until a successor is appointed. 5 & 6 Will. 4, c. 78, s. 11.

When a sheriff is incapacitated from acting, by *sickness* or *unavoidable absence*, one of his ordinary substitutes may act in his stead, provided he hold a substitution specially authorizing him so to do. 2 & 3 Will. 4, c. 65, s. 42.

In the event of no such special substitution the sheriff's ordinary substitute at the place must act for him. 5 & 6 Will. 4, c. 78, s. 11.

Sheriff officer of militia. By the Militia Act, 1882, it is provided that a sheriff, who is a militia officer, shall be discharged from personally performing the office of sheriff during the time his regiment is embodied, and the under sheriff is answerable for its due execution. 45 & 46 Vict. c. 49, s. 40.

Mayors. For English and Irish municipal boroughs (not being counties of cities or towns) returning members to parliament, the mayors are the returning officers. 45 & 46 Vict. c. 50, s. 244 (1) (*England*); 3 & 4 Vict. c. 108, s. 84 (*Ireland*).

If there are more mayors than one within the limits of a parliamentary borough, the writ is to continue to be directed to the mayor of that one of the municipal boroughs to the mayor of which it was directed before the passing of the "Redistribution of Seats Act, 1885," and if it has not been directed to any such mayor then to the mayor of that one of the municipal boroughs which has the largest population according to the last census. 48 & 49 Vict. c. 23, s. 12 (4).

If, when a mayor is required to act as returning officer, he is absent, or incapable of acting, or there is no mayor, the council must forthwith choose an alder-

man to be returning officer. 45 & 46 Vict. c. 50, s. 244 (3); 3 & 4 Vict. c. 108, s. 84.

The Returning Officers in Non-Municipal Boroughs (*a*). The returning officers for certain of the boroughs created by the Reform Act, 1832, are given in schedules C. and D. to that Act; as regards others it is provided that the sheriff of the county, in which the whole or greatest part of such borough is situate, shall appoint a fit person to be returning officer. 2 & 3 Will. 4, c. 45, s. 11; 48 & 49 Vict. c. 23, s. 12 (3).

The appointment is to be made under the hand of the sheriff in the month of March in each year, and must be delivered to the clerk of the peace for the county to be filed and preserved with the records of his office. *Ibid.*

The person appointed need not now be resident, but he must have an office within the borough. 48 & 49 Vict. c. 23, s. 12 (2). He cannot refuse to serve (but it is presumed that this only applies to residents), unless he has already served, or is in Holy Orders, or is a churchwarden (*b*) or overseer (*b*), or is qualified to be a member of parliament. In the last case, if the person nominated wishes to be excused, he must, within one week after he has received notice of his nomination, make oath of his qualification before a justice of the peace, and notify the same to the sheriff. 2 & 3 Will. 4, c. 45, s. 11. Property qualification for members of parliament is no longer required. 21 & 22 Vict. c. 26. A returning officer cannot be appointed churchwarden or overseer during his term of office. 2 & 3 Will. 4, c. 45, s. 11.

The above provisions have been extended to Birkenhead when it was enfranchised. 24 & 25 Vict. c. 112.

(*a*) The high bailiff of Westminster is the returning officer for any new borough, the whole or greater part of which is comprised in what has up to the present been the parliamentary borough of Westminster. 48 & 49 Vict. c. 23, s. 12 (5.)

(*b*) These are ineligible.

To the new boroughs created by 30 & 31 Vict. c. 102, and also to those created by 48 & 49 Vict. c. 23, in which there is not, for the time being, a mayor. s. 12 (1).

Resignation. A returning officer so appointed cannot resign before the expiration of his year of office. *Wakefield case*, Bar. & Aust. 270.

Death. If a person appointed dies or becomes incapable, the sheriff must appoint another person for the remainder of the year. 2 & 3 Will. 4, c. 45, s. 11.

Whenever a parliamentary borough becomes a municipal borough, the authority of the person acting as returning officer ceases, and the mayor takes his place, subject to the repayment to him of any expenses properly incurred. 31 & 32 Vict. c. 58, s. 33.

The return made by a *de facto* returning officer will be held valid. See *Wakefield case*, *supra*, also *Bodmin case*, 2 Fraser, 236. And that against a return made by the proper officer, unless he took proper steps to make it known that the proceedings before him were the only legal ones. 1 Roe, 453.

The effect of the minority of a returning officer on an election has never been definitely settled. See the *Belfast case*, Bar. & Aust. 555.

The Under Sheriff. Besides carrying on the election when the sheriff is dead, or is an officer of militia on actual service, the under sheriff may, by virtue of his office, perform the ministerial duties connected with the election, but the duty of deciding objections to the nomination and ballot papers, which is of a judicial nature, should be performed by the sheriff himself. See Home Office Abstract of the Ballot Act, par. 43.

Every under sheriff, in so far as he acts as returning officer, and also every deputy (*see next par.*) are deemed to be included in the term returning officers. 35 & 36 Vict. c. 33, s. 8.

Appointment of Deputy. Where a county is divided for the purposes of parliamentary representation, the sheriff is returning officer for each division, and in this case he may, by writing under his hand, appoint a fit person to be his deputy, for all or any of the purposes relating to an election in such county, and may, by himself or such deputy, exercise any powers or do any things which the returning officer is authorized or required to do in relation to such election. 35 & 36 Vict. c. 33, s. 8.

Similar power is conferred on the returning officers of divided boroughs by the Redistribution of Seats Act, 1885. 48 & 49 Vict. c. 23, s. 13.

The deputy in this case cannot fix the day for taking the polls. *Ibid.*

Disabilities of Returning Officers. The sheriff of county is ineligible for that county or for any place within his jurisdiction (*Abingdon*, 1 Doug. 420); but he is eligible for a county of a city or town within his county but not within his jurisdiction. *Southampton*, 4 Doug. 87; *Wells*, 4 Doug. 123.

The returning officer of a borough is ineligible for that borough. *Wakefield*, Bar. & Aust. 295.

Returning Officer not to Vote. The returning officer must not vote at an election. If, however, there is an equality of votes between any candidates, and the addition of one vote would entitle any of the candidates to be declared elected, he may, if a registered elector of the county or borough, give a casting vote. 35 & 36 Vict. c. 33, s. 2.

Declaration of Secrecy. Every returning officer must make a statutory declaration of secrecy before a justice of the peace before the opening of the poll. 35 & 36 Vict. c. 33, s. 4; Sched. I., r. 54; Sched. II., and *Drogheda case*, 2 O'M. & H. 201.

Not to Act as Agent. A returning officer for any county or borough, his deputy, or any partner or clerk of either of them, who acts as agent for a candidate in the conduct of his election for such county or borough is guilty of a misdemeanor. 30 & 31 Vict. c. 102, s. 50 (*England*); 31 & 32 Vict. c. 49, s. 13 (*Ireland*); 35 & 36 Vict. c. 33, s. 11.

Returning Officer not to take Fees. Returning officers and under sheriffs are prohibited from giving, paying, receiving, or taking any reward or gratuity whatsoever for execution of a writ. 7 & 8 Will. 3, c. 25, s. 2.

In *Ireland* a candidate giving a gratuity, fee, or reward to the returning officer or his deputy forfeits his seat. 1 & 2 Geo. 4, c. 58, s. 3; 4 Geo. 4, c. 55, s. 73.

The returning officer is, however, entitled to his reasonable charges. See 38 & 39 Vict. c. 84, *post*, Chap. VI.

Where a certain officer is returning officer it seems that if a change of such officer takes place in consequence of the death or of the expiration of the period of office, pending the election proceedings, the person succeeding to the office should complete what remains to be done. 1 Roe, 463; 1 Stephens, 81.

Statutory Penalties. In addition to the summary punishment inflicted by the House of Commons, a returning officer is also liable to numerous penalties imposed by various statutes extending from 5 Rich. 2 to 46 & 47 Vict., each new statute, by a sort of common form, carefully providing that the penalty thereby imposed shall not be construed to supersede any of the earlier penalties. See 2 & 3 Will. 4, c. 45, s. 76; 6 Vict. c. 18, s. 97; 35 & 36 Vict. c. 33, s. 11.

Negligence. 5 Rich. 2, st. 2, c. 4, enacts that if any sheriff of the realm be henceforth negligent in making

his return of the writs to parliament, he shall be punished in the manner as was accustomed to be done in the said case in times past. 31 & 32 Vict. c. 125, s. 48, enacts that if any returning officer wilfully delays, neglects, or refuses to return any person who ought to be returned to serve in parliament, such person may recover double the damages he has sustained with full costs of suit.

False Returns. 8 Hen. 6, c. 7, enacts that if any sheriff return knights to come to parliament contrary to the ordinance, if duly convicted thereof before the justices of assize, he shall forfeit 100*l.* to the king, and be imprisoned for one year without bail.

The mayor of Sligo was prosecuted for falsifying the return at the election of 1852; he was prosecuted and sentenced to twelve months imprisonment.—Per KEOGH, J., in the *Tipperary case*, 3 O'M. & H. 29.

By 7 & 8 Will. 3, c. 7, ss. 2, 3, it is enacted that any officer making a false or double return may be sued by every person duly elected, who shall recover double damages with full costs of suit.

This statute has been put in force in at least two cases. Mr. Fox brought an action against the high bailiff of Westminster, and recovered 2,000*l.* damages. Lord W. Gordon and Mr. Baillie also brought actions against the returning officers of Horsham, and recovered double damages.

A returning officer wilfully contravening the provisions of the Reform Act, 1832, is liable to be sued for 500*l.* by any party aggrieved being an elector, a candidate, or a member actually returned. 2 Will. 4, c. 45, s. 76.

By 6 Vict. c. 18, a returning officer is to forfeit to any person aggrieved by any wilful misfeasance, or any wilful act or omission contrary to that Act, a sum not exceeding 100*l.* s. 97. For *Ireland* see 13 & 14 Vict. c. 69, s. 103.

The Ballot Act, 1872, imposes a penalty not exceed-

ing 100*l.* for any wilful misfeasance or omission contrary to that Act. 35 & 36 Vict. c. 33, s. 11.

The Corrupt and Illegal Practices Prevention Act, 1883, extends the provisions of section 11 of the Ballot Act to offences committed against its own provisions by returning officers. 46 & 47 Vict. c. 51, s. 61.

If, however, a returning officer be not influenced by fraud or malice, but act in the conscientious discharge of his duty, no action can be maintained against him. *Drewe v. Colton*, 2 Lud. 245.

CHAPTER II.

THE NOMINATION.

The Writ. A parliamentary election can only be held in pursuance of a writ issued by the Clerk of the Crown in Chancery (in Ireland by the Clerk of the Crown and Hanaper). The following is the form of the writ as given in Schedule II. of the Ballot Act, 1872 :—

Writ for a County or Borough at a Parliamentary Election.

(a) Victoria, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to the
(b) of the county [*or borough*] of
greeting :

(c) Whereas by the advice of our council we have ordered a Parliament to be holden at Westminster on the day of next. We command you that, notice of the time

(a) The name of the Sovereign may be altered when necessary.

(b) Insert "sheriff" or other returning officer.

(c) This preamble to be omitted except in case of a general election.

and place of election being first duly given, you do cause election to be made according to law of _____ members [or a member] to serve in Parliament for the said county [or the division of the said county, or the borough [or *as the case may be*] of _____ (a) and that you do cause the names of such members [or member] when so elected, whether they [or he] be present or absent, to be certified to us, in our Chancery, without delay.

Witness ourself at Westminster, the _____ day of _____
in the _____ year of our reign,
and in the year of our Lord 18 _____.

Label or direction of Writ.

To the _____ (b) of _____

A writ of a new election of members [or member] for the said county [or division of a county or borough, or *as the case may be*].

Endorsement.

Received the within writ on the _____ day of _____
18 _____.

(Signed) _____ A.B.,
High Sheriff [or Sheriff, or Mayor, or as
the case may be].

Certificate endorsed on the Writ.

I hereby certify that the members [or member] elected for
in pursuance of the within-written writ, are [or
is] A.B. of _____ in the county of _____
and C.D. of _____ in
the county of _____

(Signed) _____ A.B.,
High Sheriff [or Sheriff, or Mayor, or as
the case may be.]

Delivery of the writ. The writ is delivered by the Messenger of the Great Seal in the Metropolitan district. Country writs are delivered to the returning officer or his deputy by the nearest postmaster or his deputy.

(a) Except in a general election, insert here "in the place of A.B., deceased," or otherwise, stating the cause of vacancy.

(b) Insert "sheriff" or other returning officer.

To enable the Post Office to deliver the writs the returning officers are required to send their postal addresses to the Postmaster-general. Those within the Metropolitan area are required to send their addresses to the Messenger of the Great Seal. 53 Geo. 3, c. 89.

The officer receiving the writ must give to the person delivering it a receipt in writing, setting forth the day and hour the writ was delivered to him. *Ibid.*

Endorsement of the Writ. The returning officer, on receipt of the writ, must endorse thereon the date of such receipt. 7 & 8 Will. 3, c. 25, s. 1.

Notice of Election. This notice must be given between 9 a.m. and 4 p.m. In the case of *counties*, within two days after that on which the writ is received. In the case of *boroughs*, the notice must be given by the returning officer on the day he receives the writ or following day. The notice must state the time and place of election (or nomination as it is usually called), and also the day appointed for polling, in case the election is contested (see table, p. xxxv.), and the time and place at which forms of nomination papers may be obtained. The following is the form of notice given in the second schedule to the Ballot Act:—

Form of Notice of Parliamentary Election.

The returning officer of the of will, on the
day now next ensuing, between the hours of
and , proceed to the nomination, and, if there
is no opposition to the election of a member [*or members*] for the
said county [*or division of a county or borough*] at the (c)

Forms of nomination paper may be obtained at (c) ,
between the hours of and on , and must
be signed by two registered electors as proposer and seconder,
and by eight other registered electors as assenting to the nomination.

Every nomination paper must be delivered to the returning
officer by the candidate proposed, or by his proposer and seconder,
between the said hours of and on the said
day of at the said .

(c) Insert description of place and room.

Each candidate nominated, and his proposer and seconder, and no other persons, are entitled to be admitted to the room.

In the event of the election being contested, the poll will take place on the day of 188 .

(Signed) A.B., (a)
 Sheriff, [or Mayor, or as the case may be].
 day of 18 .

Take notice, that all persons who are guilty of bribery, treating, undue influence, personation, or other corrupt practices, or any illegal practice at the said election will, on conviction of such offence, be liable to the penalties mentioned in that behalf in "The Corrupt Practices Prevention Act, 1854," "The Corrupt and Illegal Practices Prevention Act, 1883," and "The Ballot Act, 1872," and the Acts amending the said Acts.

Take notice, that by "The Parliamentary Elections (Returning Officers) Act, 1875," it is provided that every person having any claim against a returning officer for work, labour, materials, services, or expenses in respect of any contract made with him by or on behalf of the returning officer, for the purposes of an election (except for the publication of account of election expenses), shall within fourteen days after the day on which the return is made of the person or persons elected at the election, transmit to the returning officer the detailed particulars of such claim in writing, and the returning officer shall not be liable in respect of anything which is not duly stated in such particulars.

In the case of a *county* election, the returning officer is required to send one of these notices by post, under cover, endorsed "Notice of Election," to the postmaster of the principal post office of each polling place in the county. Such notices are to be forwarded post free, and the postmaster shall forthwith publish the same in the manner in which post office notices are usually published. 35 & 36 Vict. c. 33, sched. I., r. 1.

Day and Hour of Election (Nomination). The day of election is to be fixed by the returning officer as follows:—In the case of an election for a *county* or a *district borough*, not later than the *ninth day* after the receipt of the writ, with an interval of not less than *three clear days* between the day on which he gives the notice and the day of election. (See table, p. xxxv).

(a) A printed signature to the notice has been held sufficient. *Sligo case*, 1 P. R. & D. 208.

In the case of a *borough*, other than a district borough, not later than the fourth day after the day on which the writ was received, with an interval of not less than two clear days between the day on which he gives notice and the day of election. *Id.* r. 2.

The election is to be held on such two hours between 10 a.m. and 3 p.m. as the returning officer may appoint, and he must attend for those two hours and one hour after. *Id.* r. 4.

Days not reckoned. In reckoning time for the purposes of the Ballot Act, Sunday, Christmas Day, Good Friday, and public fasts and public thanksgiving days are excluded. *Id.* r. 56.

Polling Day. The polling day is also to be fixed by the returning officer, and must, in the case of *counties* and *district boroughs*, be not less than *two* nor more than *six* clear days, and in the case of boroughs, other than district boroughs, must not be more than *three* clear days after the *day fixed for the election* (*Id.* r. 14.); and at a general election the poll in divided boroughs must be taken in all the divisions on the same day. 48 & 49 Vict. c. 23, s. 8 (4).

In divided boroughs, the polling day must be fixed by the returning officer himself and not by the deputy. 48 & 49 Vict. c. 23, s. 13.

Exceptions. The days of nomination and polling for Orkney and Shetland and for the Wick district of burghs are still regulated by the Scotch Reform Act, 1832. 2 & 3 Will. 4, c. 65, ss. 28, 30, 31; 35 & 36 Vict. c. 33, sched. I., r. 61.

Error in Notice. It has been held that, where insufficient notice was given of an election, the election was void, and that no agreement of the parties could supply the defect. *Seaford case*, 3 Lud. 3; *Rye case*, 1 P. R. & D. 112.

The committee came to a contrary decision, however, in the *Athlone case*: Bar. & Arn. 135. See also the remarks of FITZGERALD, J. in the *Longford case*, 2 O'M. & H. 7.

In trying a municipal election petition, the present Master of the Rolls lays it down that a mere defect in the notice, which misleads no one, cannot render an election void; but if the defect is so great that the electors or a great number of them are misled, and so the result is contrary to the real views of the constituency, the error in the notice will invalidate the election. *Howes v. Turner*, 1 C. P. D. 680.

It may also be observed that section 13 of the Ballot Act, 1872, enacts that no election shall be declared invalid by reason of a non-compliance with the rules contained in the first schedule to that Act, or any mistake in the use of the forms in the second schedule, if it appears to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in the body of the Act, *and that the result of the election was not affected thereby*.

The Place of Election. By the Ballot Act the place of election was to be a convenient room situate in the town in which such election would have been held if that Act had not passed, or where the election would not have been held in a town, then situate in such town in the county as the returning officer may determine as being most convenient to the electors. 36 & 37 Vict. c. 33, sched. I., r. 3.

In *Scotland* the place of election is to be a convenient room in the town in which the writ would have been proclaimed if the Ballot Act had not passed. *Id.* r. 58.

The Redistribution of Seats Act, 1885, provides that the place of election in case of a *division of a county* shall be in such town situate in such county at large, or in a county or city of a town adjoining thereto, as the

local authority having power to divide the division into polling districts, or in default of any determination by such local authority, the returning officer may from time to time determine as being the most convenient for the purposes of election (a). 48 & 49 Vict. c. 23, s. 16 (1).

The place of election in case of a *borough*, or any division thereof, shall be such room in the borough as the returning officer may determine. *Ibid.*

A nomination is not to be made, nor an election holden, for any city or borough in any church, chapel, or other place of public worship. 2 & 3 Will. 4, c. 45, s. 68.

Public Notice—how given. Where the returning officer is required or authorized by the Ballot Act to give any public notice, he is to carry such requirement into effect by advertisements, placards, handbills, or such other means as he thinks best calculated to afford information to the electors. 35 & 36 Vict. c. 33, sched. I., r. 46.

The term “proclamation,” as used in enactments relating to elections, includes a public notice given in pursuance of the Ballot Act, 1872. *Id.* s. 15.

Name of printer and publisher on election placards. Any person printing, publishing, or posting a bill, placard, or poster, having reference to an election, which does not bear on its face the name and address of the printer and publisher, is liable to a fine of 100*l.* 46 & 47 Vict. c. 51, s. 18.

Nomination Papers. The returning officer must supply a form of nomination paper to any registered elector requiring one, during such two hours as may be fixed between 10 a.m. and 2 p.m. on each day intervening between the day of notice and the nomination day,

(a) In *Ireland* the place of election, in case of the division of a county, is to be fixed by the returning officer, and must be situate within the division or within the county of a city or town adjoining such division. 48 & 49 Vict. c. 23, s. 16 (1).

and during the time appointed for the election. 35 & 36 Vict. c. 33, sched I., r. 7.

The use of a nomination paper supplied by the returning officer is not obligatory; any paper will do so long as it is in the form prescribed by the Act. *Ibid.* The following is the form:—

Form of Nomination Paper in Parliamentary Election.

We, the undersigned *A.B.*, of _____, in the _____ of _____, and *C.D.*, of _____, in the _____ of _____, being electors for the _____ of _____, do hereby nominate the following person as a proper person to serve as member for the said _____ in parliament:—

| Surname. | Other Names. | Abode. | Rank, Profession, or Occupation. |
|-----------|---|-------------------------------|---|
| BROWN | John | 52, George Street, Bristol | Merchant. |
| JONES ... | <i>or</i> William David | High Elms, Wilts | Esquire. |
| MERTON | <i>or</i> Hon. George Travis (commonly called Viscount). | Swanworth, Berks | Viscount. |
| SMITH ... | <i>or</i> Henry Sydney | 72, High Street, Bath | Attorney. |

(Signed) *A.B.*
C.D.

We, the undersigned, being registered electors of the _____ do hereby assent to the nomination of the above-mentioned *John*

Brown as a proper person to serve as member for the said in Parliament.

(Signed) *E.F.* of
G.H. of
I.J. of
K.L. of
M.N. of
O.P. of
Q.R. of
S.T. of

Note.—Where a candidate is an Irish peer, or is commonly known by some title, he may be described by his title as if it were his surname.

Nomination of Candidate. Each candidate for a county or borough must be nominated by a separate nomination paper, but the same electors, or any of them, may subscribe as many nominations as there are vacancies to be filled, but no more. *Id.* r. 5.

Each nomination paper must be in writing, subscribed by two registered electors of the county or borough as proposer and seconder, and by eight other electors of the same county or borough as assenting to such nomination, and must be delivered to the returning officer during the time and at the place appointed for the election by the candidate himself, or his proposer or seconder. *Id.* s. 1.

A nomination paper to which the assentors had appended their names before the name of the candidate had been filled in, or before being signed by the proposer and seconder, would be invalid. *Harmon v. Park*, 7 Q. B. D. 369.

Where the name of the proposer was struck out of a nomination paper, and another name substituted in the absence of the subscribers, the paper was held to be invalid. *Id.*

Where a person entitled to sign four nomination papers, afterwards signed a fifth, all of which were

handed in in due time, it was held that the first four were valid, the fifth void. *Burgoyne v. Collins*, 8 Q. B. D. 450.

A nomination paper delivered by a person who was neither candidate, proposer, nor seconder, was held to be void. *Monks v. Jackson*, 1 C. P. D. 683.

The candidate nominated by each nomination paper, and his proposer and seconder, and one other person selected by the candidate, and no other person shall, except for the purpose of assisting the returning officer, be entitled to attend the proceedings during the time appointed for the election. 35 & 36 Vict. c. 33, sched. I., r. 8.

Any person who forges, or fraudulently defaces or destroys a nomination paper, or knowingly delivers a forged nomination paper to the returning officer, shall be guilty of a misdemeanor, and if he is the returning officer, liable to imprisonment for any term not exceeding two years, with or without hard labour. Any other person is liable to imprisonment for any term not exceeding six months, with or without hard labour. *Id.* sec. 3.

Any attempt to commit any of the above-mentioned offences shall be punishable in the manner in which the offence itself is punishable. *Ibid.*

Description of Candidate. Each candidate shall be described in the nomination paper in such manner as in the opinion of the returning officer is calculated to sufficiently identify such candidate; the description shall include his names, his abode, and his rank, profession, or calling, and his surname shall come first in the list of his names. No objection to a nomination on the ground of the description of the candidate therein being insufficient, or not being in compliance with this rule, shall be allowed or deemed valid, unless the objection is made by the returning officer, or by some other

person, at or immediately after the time of the delivery of the nomination paper. *Id.* r. 6.

In a municipal election case, where a candidate's second Christian name was represented by the initial letter, it was held that there was not a sufficient statement of the surname and other names. *Mather v. Brown*, 1 C. P. D. 596. This case was decided, however, on 38 & 39 Vict. c. 40, in which there was no provision for insufficient description similar to that which is made by rule 6 and section 13 of the Ballot Act. It is therefore probable that a like objection to a nomination paper at a parliamentary election could not be successfully maintained.

To prevent any question, however, it would be prudent to give a candidate's names in full, and for the subscribers to sign their names as they appear on the register of electors, so that no question as to identity may arise (a).

In the *Staleybridge* municipal election case (a), a nomination paper was held to have been properly rejected, because one of the subscribers who appeared on the burgess roll as C. B., signed C. A. B. (his full name).

Where the same candidate has been nominated by more than one nomination paper, the returning officer should enter his name once only in the ballot paper, and either describe him as in the correct nomination paper, or append to his name the descriptions in any of his nomination papers which differ. *Northcote v. Pulsford*, L. R. 10 C. P. 484.

Notice of Nomination. The returning officer is required, on a nomination paper being handed to him, forthwith to publish notice of the name of the person nominated as a candidate, and his proposer and seconder, by placarding such names in a conspicuous place outside the building in which the room appointed for the election is situate. 35 & 36 Vict., c. 33, r. 11.

(a) *Moorhouse v. Linney*, 15 Q. B. D. 273; 33 W. R. 704; 49 J. P. 471.

So long as the nomination paper is in proper form, the returning officer cannot insist upon anything else as a condition precedent to putting the candidate in nomination.—*Davies v. Lord Kensington*, L. R. 9 C. P. 729 (the *Haverfordwest* case). Mr. Davies was duly nominated, but the sheriff declined to take notice of his nomination because he refused to find money or give security for the sheriff's expenses. At the close of the election the respondent was declared duly elected, but unseated on petition.

In the *Mayo* case, 2 O'M. & H., 191, the returning officer refused to accept a nomination because the candidate had failed to comply with the statute which required him to appoint an expenses agent. Election held void.

Only those who have been nominated in the manner provided by the Ballot Act can have their names inserted in any ballot paper; and every person whose nomination paper has been delivered to the returning officer during the time appointed for the election, is deemed to have been nominated in the manner provided by that Act, unless objection be made to his nomination paper by the returning officer or some other person during the time appointed for the election, or within one hour afterwards. 35 & 36 Vict. c. 33, sch. I., r. 12.

A candidate may *during the time* appointed for the election, but not afterwards, withdraw from his candidature by giving notice to that effect, signed by himself, to the returning officer. The *proposer* of a candidate absent from the United Kingdom may withdraw such candidate by a like notice, together with a written declaration of the absence of the candidate. *Id.* s. 1.

Whenever a candidate is withdrawn, the returning officer must give public notice of the name of such candidate, and the names of the persons who subscribed (*i.e.*, the proposer, seconder, and eight assentors) his nomination paper, as well as of the candidates who stood nominated or were elected. *Id.* sch. I., r. 10.

Returning Officer to decide Objections. The returning officer is to decide on the validity of every objection made to a *nomination paper*, and his decision, if *disallowing the objection, is final*; but if allowing the same, it is subject to reversal on petition, questioning the election or return. *Id.* r. 13.

It will be observed that the returning officer is invested with power to decide on objections to the candidate's nomination paper only, and not on objections that may be raised against the candidate himself—with these he has nothing to do.

MORRIS, J., in the *Mayo case*, 2 O'M. & H., 191, says, "A party is put in nomination; the sheriff has the fullest power under the Act of Parliament of investigating his nomination paper * * * there his control ends."

In the *Tipperary case*, 3 O'M. & H., 21, the conduct of the sheriff was complained of in putting Mr. Mitchell, who had been declared disqualified by the House of Commons, in nomination, but no notice was taken of the complaint.

On the authority of the decision of the Committee in the *Flintshire case*, 1 Peck. 526, declaring the return of a minor vexatious, it has been said that if the returning officer is apprised of some notorious disqualification of a candidate, he may prevent his return. The decision in the *Tipperary case* would indicate that the judges are not disposed to follow the *Flintshire case*, as nothing could be more notorious than Mr. Mitchell's disqualification.

Uncontested Election. If at the expiration of one hour after the time appointed for the election, no more candidates stand nominated than there are vacancies, the returning officer is forthwith to declare the candidates elected, and return their names to the clerk of the crown. 35 & 36 Vict. c. 33, s. 1.

The returning officer must wait until the expiration of the hour before making the return, for until that time has elapsed a fatal objection might be taken to a candidate's nomination, in which case he could not be returned.

Contested Election. If at the expiration of the hour more candidates stand nominated than there are vacancies, the returning officer must adjourn the election, and take a poll in the manner mentioned in the Ballot Act, 1872. 35 & 36 Vict. c. 33, s. 1.

Public notice of poll. As soon as practicable after the adjournment, the returning officer must give public notice of the polling day, and of the candidates as described in their respective nomination papers; and of the persons subscribing the different nomination papers, and of the order in which the names will be printed in the ballot paper, and in the case of a *county* election, deliver to the postmaster of the principal post office of the town in which the election is held a paper, signed by himself, containing the names of the candidates nominated, and stating the day on which the poll will be taken.

The postmaster must forward this information by telegraph, free of charge, to the several postal telegraph offices in the county for which the election is to be held, and such information is to be forthwith published at each office in the manner in which post office notices are usually published. *Ibid.*

Security for Expenses. The returning officer is entitled to demand security for his charges, not exceeding the amount contained in the third schedule to the Parliamentary Elections (Returning Officers) Act, 1875. If the candidate fail to give such security when required, within one hour after the two hours fixed for the elec-

tion, he is to be deemed withdrawn. 38 & 39 Vict. c. 84, s. 3 (*England and Ireland*).

Similar provisions for Scotland. 41 & 42 Vict. c. 41.

After Adjournment, a Poll must be taken.

Once the adjournment of the election has taken place, the return to the writ can only be made in conformity with the result of the poll. *Wexford case*, 3 Ir. R. C. L. 612.

Death of a Candidate. If after the adjournment of an election one of the candidates dies before the *poll has commenced*, the returning officer shall, on being satisfied of such death, countermand the notice of the poll, and all proceedings must commence afresh in all respects as if the writ had been received by the returning officer on the day on which *proof* was given by him of such death; but no fresh nomination is necessary in the case of a candidate nominated at the time the poll was countermanded. 35 & 36 Vict. c. 33, s. 1.

Election Agent—Notices respecting. On or before the day of nomination notice must be given to the returning officer of the name, address, and situation of office of the election agent of each candidate. The notice must be in writing, under the hand of the candidate, or some other person on his behalf. 46 & 47 Vict. c. 51, s. 24.

A candidate may be his own election agent. *Ibid.*

The returning officer must *forthwith* give public notice of the name, address, and office of each election agent. *Ibid.*

The returning officer must not treat a nomination as invalid because the candidate has failed to give him notice of the appointment of an election agent. *Mayo case*, 2 O'M. & H., 191.

On the *death* of an election agent, or the revocation of his appointment, another must be appointed, and

notices similar to those required in the case of first appointments given to and by the returning officer. 46 & 47 Vict. c. 51, ss. 24, 26 (1).

CHAPTER III.

PREPARATIONS FOR THE POLL.

Polling Districts. The power of dividing counties and boroughs into polling districts, and also of assigning polling places in counties, is vested in certain local authorities. 30 & 31 Vict. c. 102, s. 34; 35 & 36 Vict. c. 33, s. 18.

Counties are to be divided so that every elector may have his polling place not more than three miles from his residence. In boroughs the distance is to be not more than one mile. 46 & 47 Vict. c. 51, s. 47.

In *Scotland* the power of dividing a county, and also the parliamentary boroughs within it, into polling districts is vested in the sheriff. 48 & 49 Vict. c. 23, s. 25.

The power of dividing Irish boroughs is vested in the town council or town commissioners. *Id.* s. 26.

An election cannot be questioned for any informality relative to the polling districts or polling places. 35 & 36 Vict. c. 33, s. 5.

Polling Stations. The returning officer has nothing to do with the division of the county or borough into polling districts, but at every polling place he must provide a sufficient number of polling stations for the accommodation of voters, and distribute them as he thinks most convenient. 35 & 36 Vict. c. 33, sched. I, r. 15.

In a district borough there must be at least one polling station at each contributory place. *Ibid.*

Where voters were prevented from voting, on account of an excessive number being allotted to a booth, the election was avoided. *Belfast case*, Bar. & Aust. 563, *note*.

School rooms, &c.—The returning officer may use, free of charge, for the purpose of taking the poll, any room in a school receiving a grant out of moneys provided by parliament (a), and any room maintained out of the local rates, but he must make good any damage, and defray any expenses incurred by the person, or body of persons, corporate or unincorporate, having control of it, on account of its being so used. 35 & 36 Vict. c. 33, s. 6.

Where a school is closed on account of its room being used as a polling station, the code issued by the Education Department provides, that, for the purpose of calculating the parliamentary grant, such days shall be counted as if the school met.

The above provision as to using schoolrooms free of charge, does not, in Ireland, apply to any school adjoining or adjacent to a church, or other place of worship; nor to any school connected with a nunnery or other religious establishment. 35 & 36 Vict. c. 33, s. 17 (3).

In *Ireland* the returning officer is to use a court house where one is available. 38 & 39 Vict. c. 84, sched. I.

Hiring room. Where no such room is available the returning officer must, whenever it is practicable, instead of erecting a booth, hire a room. 30 & 31 Vict. c. 102, s. 37; 31 & 32 Vict. c. 48, s. 26, and c. 49, s. 10.

The use of a room in an unoccupied house for a polling station, does not render any person liable to be rated,

(a) A list of these schools is published annually in a Blue Book.

or to pay any rate for such house. 35 & 36 Vict. c. 33, s. 6.

Churches, &c., not to be used. No election is to be made for any member of a city or borough in any church, chapel, or other place of public worship. 2 & 3 Will. 4, c. 45, s. 68.

Poll at inn. No poll is to be taken at any inn, hotel, tavern, public-house, or other premises licensed for the sale of beer, wine, or spirits, or in any booth, hall, room, or other place directly communicating therewith, unless by the consent of all the candidates in writing. 16 & 17 Vict. c. 68, s. 6 (*England*); 16 & 17 Vict. c. 28, s. 4 (*Scotland*).

Public Notice of the Situation of Polling Stations. The returning officer must give public notice of the situation of polling stations, and the description of voters entitled to vote thereat, and of the mode in which the electors are to vote. 35 & 36 Vict. c. 33, sched I., r. 19.

In boroughs public notice was required to be given two days before the commencement of the poll. 2 & 3 Will. 4, c. 45, s. 68. And this provision does not appear to be affected by the Ballot Act, 1872, which leaves this part of the section untouched, while repealing the words immediately following.

No person is to be allowed to vote except at the station allotted to him. 35 & 36 Vict. c. 33, sched. I., r. 18.

A separate room or separate booth may contain a separate polling station, or several polling stations may be constructed in the same room or booth. *Id.* r. 17.

Directions for the guidance of voters. These are to be printed in conspicuous characters, and placarded *outside* every polling station and in every compartment of every polling station. 35 & 36 Vict. c. 33, sched. II.

Form of Directions for the guidance of the voter in voting, which shall be printed in conspicuous characters, and placarded outside every polling station, and in every compartment of every polling station.

The voter may vote for candidate.

The voter will go into one of the compartments, and, with the pencil provided in the compartment, place a cross on the right-hand side opposite the name of each candidate for whom he votes, thus **X**. The voter will then fold up the ballot papers so as to show the official mark on the back, and, leaving the compartment, will, without showing the front of the paper to any person, show the official mark on the back to the presiding officer, and then, in the presence of the presiding officer, put the paper into the ballot-box and forthwith quit the polling station.

If the voter inadvertently spoils a ballot paper, he can return it to the officer, who will, if satisfied of such inadvertence, give him another paper.

If the voter votes for more than candidate, or places any mark on the paper by which he may be afterwards identified, his ballot paper will be void, and will not be counted.

If the voter takes a ballot paper out of the polling station, or deposits in the ballot-box any other paper than the one given him by the officer, he will be guilty of a misdemeanor, and be subject to imprisonment for any term not exceeding six months, with or without hard labour.

Note.—These directions shall be illustrated by examples of the ballot paper.

Secret Compartments. Each polling station is to be furnished with such number of compartments, in which the voters can mark their ballot papers screened from observation, as the returning officer may think necessary, but there must be one compartment at least for every one hundred and fifty electors. *Id.* r. 16.

As to use of municipal compartments at parliamentary elections,—see below “Municipal Ballot Boxes.”

In the *Drogheda case*, 2 O’M. & H. 201, one of the grounds on which it was sought to set aside the election, was the arrangement of the polling stations. There the “compartment” was a room separated from that in which the presiding officer sat by a passage to which the public had access. The judges of the Court of Common Pleas in Ireland were equally divided as to

whether it was such an infringement of the Ballot Act as to render the election void.

Stamping Instruments. The returning officer must provide each polling station with the materials (usually a pencil) with which voters may mark the ballot papers, and with instruments for stamping thereon the official mark, which must be kept secret (seven years must elapse before the same mark can be again used at an election for the same county or borough). 35 & 36 Vict. c. 33, sched. I., r. 20.

Register of Voters. Each polling station is to be provided with a copy of the part of the register of voters which contains the names of the electors entitled to vote at that station. 35 & 36 Vict. c. 33, sched. I., r. 20.

The register of voters is to be delivered on or before the last day of December in each year, by the clerk of the peace or town clerk, as the case may be, to the sheriff or other returning officer, and such register shall be the register of persons entitled to vote at any election during the year commencing the first of January after it is made. 6 Vict. c. 18, ss. 47, 48; 30 & 31 Vict. c. 102, s. 38.

Where, in consequence of a judgment or order of the Court of Common Pleas, an alteration of the register of voters becomes necessary, notice is to be given by the court, signed by one of the Masters, to the returning officer, specifying exactly the alteration; this must be carried out by the returning officer in the register of voters, who must also sign his name against every such alteration. He must also keep the Master's notice and hand it over to his successor. 6 & 7 Vict. c. 18, ss. 67, 68.

The right to vote at an election is not to be affected by any appeal pending at the date of issue of the writ *Id.* s. 69.

Ballot Boxes. Each polling station must be provided with a ballot box, so constructed that the ballot papers can be introduced therein, but cannot be withdrawn therefrom, without the box being unlocked. 35 & 36 Vict. c. 33, sched. I., r. 23.

Use of municipal ballot boxes, &c. Where a parliamentary and municipal borough occupy the whole or any part of the same area, any ballot boxes or fittings for polling stations, and compartments provided for such parliamentary or municipal election, may be used in any municipal or parliamentary election in such borough free of charge, and any damage, other than reasonable wear and tear, caused to the same, shall be part of the expenses of the election at which they are so used. 35 & 36 Vict. c. 33, s. 14.

In any case to which the fourteenth section of the Ballot Act, 1872, is applicable, it shall be the duty of the returning officer, so far as is practicable, to make use of the ballot boxes, fittings, and compartments provided for municipal or school board elections, and the court upon taxation of his accounts, shall have regard to the provisions of this section. 38 & 39 Vict. c. 84, s. 6 (*England and Ireland*); 41 & 42 Vict. c. 41, s. 4 (*Scotland*).

Ballot Papers. The returning officer must also supply ballot papers on which the electors are to record their votes. Each ballot paper must have a number printed on the back, and have attached a counterfoil with the same number printed on the face; it must contain a list of the candidates described as in their respective nomination papers, and arranged alphabetically in the order of their surnames, and (if there are two or more candidates with the same surname) of their other names. It must be in the form set forth in the Ballot Act, 1872, or as near thereto as circumstances admit,

and must be capable of folding up. 35 & 36 Vict. c. 33, s. 2; sched. I., r. 22.

In the *Hackney case*, 2 O'M. & H. 62, the election was declared void, on account of the returning officer's failure to provide ballot papers at several of the polling stations.

Appointment of Officers. The returning officer is required to appoint and pay such officers as may be necessary for effectually conducting an election in the manner provided by the Ballot Act, 35 & 36 Vict. c. 33, s. 8.

No person shall be appointed by a returning officer for the purposes of an election who has been employed by any other person in or about the election. 35 & 36 Vict. c. 33, sched. I., r. 49.

An officer appointed by the returning officer cannot act as agent for any candidate, nor can his partner or clerk. 30 & 31 Vict. c. 102, s. 50; 35 & 36 Vict. c. 33, s. 11.

Presiding officers. A presiding officer must be appointed for each polling station. No particular mode of appointment is laid down by the Ballot Act, but the universal practice is to make the appointment in writing. No professional qualification is required, and at a county election in Ireland the presiding officer at a polling station need no longer be a freeholder of that county. 35 & 36 Vict. c. 33, sched. I., r. 63.

The returning officer may, if he think fit, preside at any polling station, and the provisions of the Ballot Act relating to presiding officers shall apply to such returning officer. *Id.* r. 47.

A presiding officer should be of *full age*. In the *Belfast case*, Bar. & Aust. 553, counsel admitted that the employment of a minor as deputy returning officer (to whom a presiding officer now corresponds), rendered the election void.

Clerks. To assist the presiding officer in taking the poll the returning officer is empowered to appoint and pay

a clerk for each polling station, and if there are more than 500 voters allotted to a station, he may appoint an additional clerk for each 500 additional electors, or fractional part thereof. 38 & 39 Vict. c. 84, sched. I., and see table I., p. 80. The duty of the clerk is to obey the lawful orders of the presiding officer.

Counters. The returning officer may, in addition to any clerks, appoint competent persons to assist him in counting the votes. Six counters may be charged for, where the number of registered electors does not exceed 3,000, and one additional for every 2,000. 35 & 36 Vict. c. 33, sched. I., r. 48; 38 & 39 Vict. c. 84, sched. I. See p. 80.

Constables. The returning officer is required to procure a sufficient attendance of constables or other peace officers in each booth. 6 & 7 Vict. c. 18, s. 90 (*England*); 13 & 14 Vict. c. 69, s. 97 (*Ireland*).

Referring to a practice of appointing partizans by the contending parties to preserve order, BLACKBURN, J., in the *Gloucester* case, 2 O'M. & H. 62, says, "I am sure it would be much better in future to let the returning officer and the local authority select, themselves, the proper number of officers to do the work, and not delegate it at all to the two political parties."

No person who has a right to vote at an election can be compelled to serve as a special constable at such election, unless he consents so to act. 17 & 18 Vict. c. 102, s. 8.

As to constables making the declaration of secrecy, see the *Drogheda* case, 2 O'M. & H. 201, where LAWSON, J., was of opinion that they should make such declaration, but that their omission to do so would not invalidate the election unless it affected the result.

Declaration of Secrecy. One of the great objects of the Ballot Act is to enable voters to record their votes secretly. It is therefore provided that every

officer, clerk, and agent in attendance at a polling station shall maintain and aid in maintaining the secrecy of the voting. No information is to be given before the close of the poll, as to the name or number of any elector who has or has not applied for a ballot paper, or as to the official mark; no interference is permitted with voter in marking his paper, nor must any attempt be made in the station to obtain information as to the candidate for whom a voter has voted or is about to vote, and if any such information be obtained it must not be communicated at *any time to any person*; the number on the back of any ballot paper given to a voter must be kept secret. 35 & 36 Vict. c. 33, s. 4.

In the same way every officer, clerk, and agent present at the counting of the votes, must maintain the secrecy of the ballot, and must not attempt to ascertain the number on the back of any ballot paper, or communicate any information as to the candidate for whom any vote is given in any particular ballot paper. *Ibid.*

No person shall, directly or indirectly, induce any voter to display his ballot paper, after he shall have marked it, so as to make known to any person the name of the candidate for or against whom he has so marked his vote. *Ibid.*

Every returning officer, and every officer, clerk, or agent authorized to attend at a polling station, or at the counting of the votes, must, before the opening of the poll, make a statutory declaration of secrecy—the returning officer, in the presence of a justice of the peace; and any other officer or agent, in the presence of a justice of the peace or the returning officer. *Id.* r. 54.

Form of Statutory Declaration of Secrecy.

I solemnly promise and declare, that I will not at this election for do anything forbidden by section four of the Ballot Act, 1872, which has been read to me.

Note.—The section must be read to the declarant by the person taking the declaration.

And any justice of the peace, and any returning officer may take and receive any declaration authorized by the Act to be taken before him. 35 & 36 Vict. 33, s. 10.

No person is now required to make any other declaration or take any oath on the occasion of an election. *Ibid.* Omission to swear the poll clerks, as directed by the Act then in force, was held not to avoid an election. *Colchester case*, 1 Peck. 506. See as to persons present at a polling station without having taken the declaration of secrecy, the *Drogheda case*, 2 O'M. & H. 201.

Every person who acts in contravention of the above provisions of the Ballot Act, respecting the secrecy of voting, shall be liable, on summary conviction before two justices of the peace, to imprisonment for any term not exceeding six months, with or without hard labour. 35 & 36 Vict. c. 33, s. 4.

The communication of information obtained in a polling station is an offence, no matter to whom, or with what object it is made; and the statement of the accused is sufficient evidence to convict him of the offence. *Queen v. Unkles*, 8 Ir. R. C. L. 57, 59.

But to obtain a conviction under section 4 of the Ballot Act the alleged offender must actually communicate the information to another person; it is not enough that he gives him the means of acquiring it. *Stannanought v. Hazeldine*, 4 C. P. D. 191.

Sub-agents—Notices respecting. One clear day before the polling day, the election agent must declare in writing to the returning officer, who must forthwith give public notice thereof, the name, address, and situation of the office of every sub-agent. 46 & 47 Vict. c. 51, ss. 25 (3), 26 (1).

Death of sub-agent. A sub-agent's appointment is not revoked by the death or removal of the agent who appointed him; but in case of his own death or the re-

vocation of his appointment, another sub-agent may be appointed, and notices similar to those mentioned in the preceding paragraph must be given to and by the returning officer. *Id.* 25 (4).

Polling Agents. Notice in writing of the name and address of every person appointed to attend at a station for the purpose of detecting personation, must be given to the returning officer, or his respective deputy, previous to the time fixed for taking the poll. 6 Vict. c. 18, s. 85 (*England*); 13 & 14 Vict. c. 69, s. 92 (*Ireland*).

The above notice may be given to the presiding officer, who has now, for the purposes of every enactment relating to the poll, the power by law belonging to a deputy returning officer. 35 & 36 Vict. c. 33, s. 10.

In Scotland the candidates may respectively appoint agents to attend at the polling stations, but there is no provision as to notice to the returning officer. *Id.* sched I., r. 59.

Agents at Counting the Votes. Notice of the appointment of these agents must be sent to the returning officer one clear day at least before the opening of the poll, and the returning officer may refuse to admit to the place where the votes are counted any person whose name and address he has not received, notwithstanding that his appointment may be otherwise valid. *Id.* r. 52.

Notice to. Notice in writing must be given to these agents, by the returning officer, of the time and place at which he will begin to count the votes. *Id.* r. 32. This notice may be delivered at, or sent by post to, the agent's address. *Id.* r. 52.

Death of. Where an agent dies or becomes incapable another may be appointed, of which appointment notice must be given to the returning officer. *Id.* r. 53.

CHAPTER IV.

THE POLL.

Presiding Officer's Powers. The duty of carrying out the provisions of the Ballot Act, relating to the taking of the poll, is cast upon the presiding officer appointed for each polling station. To assist him in his various duties he is provided by the returning officer with one or more clerks, whose duty it is to carry out his instructions, and he may do by the clerks appointed to assist him any act which he is required or authorized to do by the Ballot Act, except ordering the arrest, exclusion, or ejection of any person from the polling station. 35 & 36 Vict. c. 33, sched. I., r. 50.

The presiding officer must keep order at his station, regulate the number of electors to be admitted at a time, and exclude all others, except the clerks, the agents of the candidates, and the constables on duty. *Id.* r. 21.

Candidate not to be excluded. A candidate ought not to be excluded; he has a general right to be present at a polling station unless he misconducts himself. *Clementson v. Mason*, L. R. 10 C. P. 209; 32 L. T. (N.S.) 325.

Misconduct in a Station. If a person misconducts himself in a polling station, or fails to obey the lawful orders of the presiding officer, he may order him to be immediately removed by any constable in or near the station, or by *any other person* authorized in writing by the *returning officer* to remove him.

A person who has thus been removed can only be allowed again to enter the polling station by permission of presiding officer. 35 & 36 Vict. c. 33, s. 9.

A person so removed, if charged with the commission *in such station* of any offence, may be kept in custody until he can be brought before a justice of the peace. *Ibid.*

The powers conferred by the above section (9) are not to be exercised so as to prevent any elector, who is otherwise entitled to vote, from having an opportunity of doing so. *Ibid.*

Adjournment of the poll in case of riot. Where the proceedings at the poll are interrupted or obstructed by any riot or open violence, the returning or presiding officer must, instead of finally closing the poll, adjourn it till the following day. If the interruption still continues, there may be an adjournment from day to day until it has ceased, when the poll must be proceeded with. The day of adjournment is not reckoned. The presiding officer, when he adjourns the poll, must forthwith give notice of the adjournment to the returning officer. When the day to which the adjournment would otherwise be made shall happen to be Sunday, Good Friday, or Christmas Day, these days shall be passed over, and the following day shall be the day to which the adjournment shall be made. 5 & 6 Will. 4, c. 36, s. 8 (*England*); 16 & 17 Vict. c. 28, s. 9 (*Scotland*).

In *Ireland* provision is made for the adjournment of the poll not only on account of riots at or near the polling place or elsewhere, but also on account of the obstruction to voters proceeding on their way to the polling place. This last mentioned obstruction must be shown by affidavit. 13 & 14 Vict. c. 68, s. 18 (*boroughs*); 25 & 26 Vict. c. 62, s. 7 (*counties*).

In the *Coventry case*, C. & R. 260; P. & K. 335, the returning officer, on the occasion of serious riots, refused to adjourn the poll; tranquillity was after a time restored, and the polling resumed. The Committee refused to set aside the election.

Presiding officer has the same power as a deputy returning officer. For the purpose of the adjournment of the poll, and of every other enactment relating to the poll, the presiding officer has the power by law belonging to a deputy returning officer; and any presiding officer, and any clerk appointed by the returning officer to attend at a polling station, has the power of asking the questions and administering the oath authorized by law to be asked of and administered to voters. 35 & 36 Vict. c. 33, s. 10.

Liability of Presiding Officer, &c. Every presiding officer, and every clerk who is guilty of any wilful misfeasance, or of any wilful act or omission in contravention of the provisions of the Ballot Act, 1872, or of the Corrupt and Illegal Practices Prevention Act, 1883, shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved by such misfeasance, act, or omission, a penal sum not exceeding one hundred pounds. 35 & 36 Vict. c. 33, s. 11.

Malice need not be alleged. The duties of the presiding officers and clerks being purely ministerial, an action will lie against them without any allegation of malice. *Pickering v. James*, L. R. 8 C. P. 499.

The presiding officer is *primâ facie* liable for any infringement of the law at his station, and is responsible for the proper carrying out of the Ballot Act. If, however, it can be shown that a particular wrongful act was done by a clerk, the latter is responsible. The presiding officer is not responsible for the acts of the clerks, as they are not appointed by him. *Pickering v. James*, *supra*.

Offences relating to ballot papers, &c. Every returning officer, presiding officer, and clerk in attendance at a

polling station is guilty of a misdemeanor, and liable to imprisonment for any term not exceeding two years, with or without hard labour, who

Forges, counterfeits, or fraudulently defaces or destroys any ballot paper or the official mark on any ballot paper ; or

Without due authority supplies any ballot paper to any person ; or

Fraudulently puts into any ballot box any paper other than the ballot paper which he is authorized by law to put in ; or

Fraudulently takes out of the polling station any ballot paper ; or

Without due authority destroys, takes, opens, or otherwise interferes with any ballot box, or packet of ballot papers then in use for the purposes of the election. 35 & 36 Vict. c. 33, s. 3.

Any other person committing any of the above-mentioned offences is liable to imprisonment for any term not exceeding six months, with or without hard labour. *Ibid.* For offences respecting nomination papers, see p. 18.

An attempt to commit any of these offences is punishable in the manner in which the offence itself is punishable. *Ibid.*

In any indictment or other prosecution for an offence in relation to the nomination papers, ballot boxes, ballot papers, and marking instruments at an election, the property in them may be stated to be in the returning officer at such election, as well as the property in the counterfoils. *Ibid.*

Infringement of secrecy. The penalty for this offence is imprisonment for any term not exceeding six months, with or without hard labour, on summary conviction before two justices. 35 & 36 Vict. c. 33, s. 4.

Opening of the Poll. The poll at every parliamentary election, except for certain universities, commences at eight o'clock in the morning. 48 & 49 Vict. c. 10, s. 1.

The presiding officers and clerks should be at the polling places sufficiently early to have everything in readiness for opening the poll at the appointed time without hurry or confusion.

Ballot box to be shown empty. The presiding officer, just before the commencement of the poll, must show the ballot box empty to such persons, if any, as may be present, so that they may see that it is empty. He must then *lock* it up, and place his seal upon it in such manner as to prevent its being opened without breaking the seal, and shall place it in his view for the receipt of ballot papers, and keep it so *locked* and *sealed*. 35 & 36 Vict. c. 33, sched. I., r. 23.

Delay in opening the poll. We are not aware of any case in which the effect of opening the poll before the appointed hour has been discussed; but two cases have been decided by election judges in which delay in opening the poll was one of the grounds of complaint. In the *Drogheda case*, 2 O'M. & H. 201, BARRY, J., refused to set aside the election because some polling stations were not opened for three-quarters of an hour after the appointed time. It is to be observed that in this case the learned judge based his decision on the fact—a fact that it would be very difficult to establish in a large constituency—that the delay had not the remotest effect upon the result of the election.

In the *Hackney case*, 2 O'M. & H. 77, four polling stations were not opened till an hour after the time, and this was one of the grounds on which the election was held to be void.

Poll not to be closed. The presiding officer must not close the poll until the time appointed by law. The poll once closed cannot be re-opened. *Arundel case*, Glanv. 71.

Confusion in the polling station. Should confusion arise from a rush of people into the station, the proper course for the presiding officer to adopt is, to suspend the issue of ballot papers until the room has been cleared and order restored. *Worcester City case*, 3 O'M. & H. 184.

As to adjournment on account of riots, see *ante*, p. 36.

Voting. When the name of a person applying for a ballot paper is found on the register of voters, his number, name, and description as stated in the copy of the register must be called out, and his number, or letter and number, entered on the counterfoil of the ballot paper given to him. Immediately before the ballot paper is given to the voter, it must be marked on both sides with the official mark, and a mark must be placed in the register against the number of the elector, to denote that he has received a ballot paper, but without showing the particular ballot paper he has received. 35 & 36 Vict. c. 33, sched. I., r. 24.

Stamping the ballot papers. A Select Committee of the House of Commons have recommended that returning officers should be directed to caution presiding officers to stamp the papers singly, each one at the moment it is issued. Par. Pap. No. 162, 1876, p. iv.

Great care should be exercised to prevent a paper being issued without the official mark. Every such paper must be rejected in counting, and the candidate damnified by the omission may maintain an action against the person who delivered it. *Primâ facie* the presiding officer is liable; but if he can show that the

marking of the ballot papers was undertaken by a clerk, the latter is responsible. *Pickering v. James*, L. R. 8 C. P. 499.

The elector having received his ballot paper, must forthwith proceed into one of the compartments in the polling station, and there secretly mark it. He must fold it up so as to conceal his vote, and place it so folded up in the ballot box, in the presence of the presiding officer, having first shown him the official mark on the back. The elector must vote without undue delay, and quit the polling station as soon as he has put his ballot paper into the ballot box. 35 & 36 Vict. c. 33, s. 2; sched. I., r. 25.

Four judges of the Court of Common Pleas were equally divided as to whether the Ballot Act imposed the duty on the presiding officer of ascertaining, before the voter places his ballot paper in the box, if it had the official mark thereon. *Pickering v. James*, L. R. 8 C. P. 499. The Select Committee above referred to have recommended that requirements of the Ballot Act should be carried out to the full.

Spoilt ballot papers. A voter who has inadvertently dealt with his ballot paper so that it cannot be conveniently used as a ballot paper, may, on delivering up the spoilt paper to the presiding officer, and satisfying him that it was spoilt through inadvertence, obtain another, and the spoilt paper must be immediately cancelled. 35 & 36 Vict. c. 33, sched. I., r. 28.

Votes marked by the Presiding Officer. The presiding officer, on the application of a voter who is incapacitated by *blindness* or other *physical cause* from voting in the manner prescribed by the Ballot Act, or (if the poll be taken on Saturday) of any person who declares that he is of the Jewish persuasion, and objects on religious grounds to vote in the prescribed manner, or of any voter who makes a declaration of

inability to read, must, in the presence of the agents of the candidates, cause the ballot paper of such voter to be marked in the manner directed by the voter, and the ballot paper to be placed in the ballot box, and the name and number, or letter and number, on the register of every voter whose vote is marked in pursuance of this rule; and the reason why it is so marked must be entered on the "list of votes marked by the presiding officer." 35 & 36 Vict. c. 33, sched. I., r. 26.

The declaration of inability to read must be made by the voter at the time of polling, before the presiding officer, who shall attest it. No fee, stamp, or other payment shall be charged in respect of such declaration. *Ibid.*

Tendered Votes. If a person representing himself to be a particular elector named on the register, applies for a ballot paper after another person has voted as such elector, the applicant shall, upon duly answering the questions and taking the oath permitted by law, be entitled to mark a ballot paper in the same manner as any other voter, but the ballot paper (called a "tendered ballot paper"), must be of a colour differing from the other ballot papers, and, instead of being put into the ballot box, must be *given to the presiding officer, and endorsed by him with the name of the voter and his number on the register*, and set aside in a separate packet, and must not be counted by the returning officer. 35 & 36 Vict. c. 33, sched. I., r. 27.

The name of the voter and his number on the register must also be entered in the "tendered votes list." *Ibid.*

The tendered vote will be added on a scrutiny, if it be proved the person tendering it was entitled to vote.

In this case it would appear that the presiding officer is bound to put the questions and administer the oath to

the person tendering his vote without being asked to do so by an agent.

Register of Voters conclusive. No person is entitled to vote at any election for a county or borough unless his name is on the register of voters for the time being in force for such county or borough; and every person whose name is on such register is entitled to demand and receive a ballot paper, and to vote. 35 & 36 Vict. c. 33, s. 7.

When, therefore, a person applies for a ballot paper in the name of a voter on the register, and no person has already voted in that name, it is the duty of the presiding officer to hand him a ballot paper without further inquiry. A polling agent present on behalf of a candidate may, however, request the presiding officer to put the questions permitted by law.

In the case of *divided boroughs*, under the Redistribution of Seats Act, 1885, a modified form of the second question is to be used. See 48 & 49 Vict. c. 23, s. 13 (4).

The presiding officer must also, if requested by an agent to do so, administer the oath permitted by law. 6 Vict. c. 18, s. 81 (a).

Similar provisions respecting the questions to be put, and the oath to be administered, have been made for *Ireland*. 13 & 14 Vict. c. 69, s. 88.

Similar questions may also be put at an election in *Scotland*, but instead of an oath, a declaration is to be made. 24 & 25 Vict. c. 83, s. 45, sched. D.; 43 Vict. c. 18, s. 3.

(a) That in all elections whatever of a member or members to serve in Parliament for any county, riding, parts, or divisions of a county, or for any city or borough in England or Wales, no inquiry shall be permitted at the time of polling as to the right of any person to vote, except only as follows (that is to say),

Oath must be administered. The law strictly enjoins the administration of such oaths as are imposed by Act of Parliament; and the persons whose duty it is to administer them are bound to perform that office, and a refusal to do so when legally required will be resented

that the returning officer or his respective deputy shall, if required on behalf of any candidate, put to any voter at the time of his tendering his vote, and not afterwards, the following questions or either of them:—

1. Are you the same person whose name appears as *A.B.* on the register of voters now in force for the county of [or for the riding, parts, or division of the county of], or for the city [or borough] of [as the case may be]?
2. Have you already voted, either here or elsewhere, at this election for the county of [or for the riding, parts, or division of the county of], or for the city [or borough] of [as the case may be]? 6 Vict. c. 18, s. 81.

Question in lieu of No. 2 to be put at elections for divided boroughs:—

Have you already voted here or elsewhere at this election for the borough of , either in this or any other division? 48 & 49 Vict. c. 23, s. 13 (4).

And if any person shall wilfully make a false answer to either of the questions aforesaid he shall be deemed guilty of a misdemeanor, and shall and may be indicted and punished accordingly; and the returning officer or his deputy * * * * * by law appointed, shall, if required on behalf of any candidate at the time aforesaid, administer an oath to any voter in the following form:—

“You do swear [or affirm, *as the case may be*], that you are the same person whose name appears as *A.B.* on the register of voters now in force for the county of or for the riding, parts, or division of the county of or for the city or borough of [as the case may be], and that you have not before voted either here or elsewhere, at the present election for the county of [or for the riding, parts, or division of the county of] or for the city or borough of [as the case may be].

“So help you God.”—6 Vict. c. 18, s. 81.

and punished by the House of Commons. Wordsworth, 174.

In the *Westminster case*, 16th December, 1708, the high bailiff was committed to Newgate because he, "in defiance of law, arbitrarily and illegally refused to put the oath of abjuration (then an oath permitted to be put) when required to do so."

Only oaths permitted are to be administered. No oath but that which is permitted by law should in any case be administered to electors (Glanv. 104, 106, 109); and although the administration of illegal oaths (as in the *Cirencester case*, 21st May, 1624) will not avoid the election, yet it has been declared by the House to be illegal to administer any oath to the electors but that expressly warranted by law. In the *Bristol case*, 20th December, 1679, the mayor and sheriffs were sent for to answer at the bar of the House for such offence. Wordsworth, 174.

The question and oath must be put in the very words of the statute. *Canterbury case*, K. & O. 326 (*Jacob's case*).

A card containing the questions and oath, with blank spaces, which can be filled up to suit the particular election, is furnished to each presiding officer. It will be found useful in practice to fill up the blanks, and read the questions and oath from the card.

If the voter do not understand the oath in English, it seems it ought to be administered to him in such language as he does understand, and that his vote ought not to be refused on that account. Roe, 644, note.

The questions can only be put to the voter at the time he applies for a ballot paper, but not afterwards. *Canterbury case*, K. & O. 325 (*Barker's case*).

Direct and positive answers should be given to the questions, and if this is not done, the presiding officer should refuse to give a ballot paper.

If, however, a person answers the questions and takes the oath, although the answers may be untrue and the oath false, the presiding officer cannot refuse a ballot paper. 6 Vict. c. 18, s. 86.

A deputy returning officer was severely censured for requiring voters to spell their names, and rejecting the votes where the spelling differed from the register. *Canterbury case*, K. & O. 131.

Qualified answer. If a voter gives a *qualified* answer to a question which may properly be put to him, the presiding officer should endeavour to obtain a definite answer before refusing him a ballot paper. In the *New Sarum case*, P. & K. 255, a voter, in reply to a question, said, "I should say yes." The returning officer rejected his vote, but the Committee, on a scrutiny, added it to the poll.

Refusal to answer the questions. Where a person who at first refuses to answer the questions or take the oath afterwards presents himself and wishes to do so, he ought not to be refused. *Gloucestershire case*, 1777; Male, 113.

Mistakes in the Register. A presiding officer will soon find out that the register of voters is not quite perfect; mistakes creep in, especially in the Christian names of voters. For instance, a voter presents himself, giving the name of "William" Smith; on searching the register the name found there is not William, but "John" Smith. If the voter states that he is the person whose name is on the register as "John" Smith, although his name is really "William" Smith, he ought to be allowed to vote. In the *New Sarum case*, P. & K. 261, William Morris appeared on the register as "John" Morris. He stated at the poll that his name was William Morris, and his vote was

rejected, because his name was not on the register; but the Committee directed it to be added to the poll.

It should be observed that the first question allowed to be put to a voter by 6 Vict. c. 18, s. 81, is, "Are you the *same person* whose name appears as A. B. on the register of voters," &c., a question that a person could truthfully answer, although his *name* has been erroneously entered on the register. See *The Queen v. Thwaites*, 1 E. & B. 704.

Disqualified persons not to vote. The provision of section 7 of the Ballot Act, 1872, which entitles any person whose name is on the register to demand a ballot paper, is not to entitle any person to vote who is prohibited from voting by any statute, or by the common law of Parliament, or to relieve such person from any penalties to which he may be liable for voting. 35 & 36 Vict. c. 33, s. 7.

There is no necessity for enumerating in this place the persons prohibited from voting, because the presiding officer has nothing to do with such objections. In the *Worcester case*, 3 O'M. & H. 187, LUSH, J., says: "Now the obvious intention of the proviso at the end of section 7 is not in order that any objection of the kind mentioned in that proviso *may be taken in the polling booth*; but the legislature put in this proviso lest the enacting part should be held to restore or make absolute the qualification of a man who really has no qualification."

Personation. A person, for all purposes of the laws relating to parliamentary and municipal elections, is to be deemed guilty of the offence of personation who at an election for a county or borough, or at a municipal election, applies for a ballot paper in the name of some other person, whether living or dead, or of a fictitious person, or who, having voted once at any

election, applies at the same election for a ballot paper *in his own name*. 35 & 36 Vict. c. 33, s. 24.

Arrest of personator. If at the time any person tenders his vote (or now applies for a ballot paper, 35 & 36 Vict. c. 33, s. 15), or after he has voted, and before he leaves the polling station, any agent appointed for the purpose of detecting personation shall declare to the returning officer or to the presiding officer that he verily believes, and undertakes to prove, that the person so voting is not in fact the person in whose name he applies for a ballot paper, or to the like effect, the returning or presiding officer must, immediately after such person has voted, by word of mouth, order any constable or other peace officer to take him into custody; and such order is a sufficient warrant for the constable so doing. 6 Vict. c. 18, s. 86.

The presiding officer cannot refuse to issue a ballot paper if the applicant answers the questions and takes the oath of identity. It was provided, however, that the returning officer or his deputy should cause the words "Protested against for personation" to be placed *in the poll book* against the vote of the person charged with personation. As poll books are now no longer used, effect cannot be given to the provision, and no useful purpose could be served by entering the words in the marked copy of the register or on the ballot paper, assuming the presiding officer to have power to do so, which, however, it is submitted, that he has not.

To be taken before justices. Persons in custody for personation are to be taken by the constable or other peace officer, at the earliest convenient time, before two justices acting for the place within which the said person has voted. If two justices cannot be found within *three* hours of the close of the poll, the person charged may request the constable to take him before

one justice, who must liberate him on entering into a recognizance with one sufficient surety to appear before two justices; and if one justice cannot be found within four hours after the close of the poll, the person charged must forthwith be discharged from custody. Any two justices may, however, on the next or some subsequent day, inquire into the charge, and, if necessary, issue their warrant for the apprehension of the person charged. 6 Vict. c. 18, s. 87.

Committal. If the justices are satisfied on the oath of not less than two credible witnesses that the person charged is guilty of the offence of personation, they shall commit him for trial. *Id.* s. 88.

Unfounded charge. Where the justices are satisfied that a charge is made without reasonable or probable cause, or if the agent making the charge does not appear to support it, they may make an order under their hands on the agent to pay the person falsely charged, if he consents to accept it, any sum not exceeding ten, nor less than five pounds, by way of damages and costs. If this sum be not paid within twenty-four hours after the making of the order, then it may be levied by distress and sale of the goods, &c., of the agent, or if he has not sufficient goods, &c., on which to levy, the same may be levied on the goods and chattels of the candidate who appointed the agent. If the money is not paid or levied, the agent or candidate may be sued for the same in any one of Her Majesty's superior courts of record. If the person agrees to accept the sum aforesaid, and it is actually paid or tendered, then the agent and candidate are released from all actions or other proceedings, civil or criminal. 6 Vict. c. 18, s. 89.

Similar provisions for *Ireland*. 13 & 14 Vict. c. 69, ss. 90, 96.

The provisions of the Registration Acts, 6 & 7 Vict.

c. 18, and 13 & 14 Vict. c. 69 (the principal of which have been set out above), shall in England and Ireland respectively apply to personation under the Ballot Act in the same manner as they apply to a person who knowingly personates and falsely assumes to vote in the name of another person, as mentioned in the said Acts. 35 & 36 Vict. c. 33, s. 24.

Returning officer may prosecute. It is the duty of the returning officer to institute a prosecution against any person whom he may believe to have been guilty of the offence of personation, or of aiding, abetting, counselling, or procuring the commission of the offence by any person, at the election for which he is returning officer; and the costs and expenses of the prosecutor and witnesses, together with compensation for their trouble and loss of time, shall be allowed by the court in the same manner in which the courts are empowered to allow the same in cases of felony. 35 & 36 Vict. c. 33, s. 24.

Punishment. A person who commits the offence of personation, or of aiding, abetting, &c., shall be guilty of felony; and any person convicted thereof on indictment shall be punished by imprisonment for a term not exceeding two years, together with hard labour. 46 & 47 Vict. c. 51, s. 6 (2).

In *Scotland* the offence of personation is deemed a crime and offence, and the rules of the law of Scotland with respect to the apprehension, detention, precognition, commitment, and bail, shall apply thereto; and any person accused thereof may be brought to trial in the court of justiciary, whether in Edinburgh or on circuit, at the instance of the Lord Advocate, or before the sheriff court, at the instance of the procurator fiscal. 35 & 36 Vict. c. 33, s. 26.

Application to universities. The provisions of the Ballot Act, 1872, as regards personation, apply to a parliamentary election for a university or combination of universities (section 31). They are also to be construed as one with the "Parliamentary Elections Act, 1868." 35 & 36 Vict. c. 33, s. 27.

Closing the Poll. Elections, except at the universities, continue for one day only; and by an Act of the present year the poll is to be kept open till eight o'clock in the afternoon, and no longer. 48 & 49 Vict. c. 10, s. 1 (a).

Orkney and Shetland. By the Ballot Act, 1872, the provisions of 2 & 3 Will. 4, c. 65, as to keeping open the poll for two consecutive days in the case of Orkney and Shetland were to remain in full force and effect; but the "Hours of Poll Act, 1885," applies to every parliamentary election, and enacts that the poll is to be kept open till eight o'clock in the afternoon of the *same day on which it was opened*, and no longer. The exception, therefore, in the case of Orkney and Shetland, appears to have been tacitly repealed. 35 & 36 Vict. c. 33, sched. I. r. 61; 48 & 49 Vict. c. 10, s. 1.

Formerly poll might be closed by proclamation. When formerly the election extended over a number of days, if the sheriff did not consider it necessary to keep open the poll during the whole time, he could, if no voter had appeared to vote for a certain time, by making three proclamations of his intention to do so, close the poll, as was done in the *Bedfordshire case*, 3 Lud. 351. But this power, although reserved to returning officers by the various Acts limiting the time for polling, has, it is believed, been seldom, if ever, acted upon of late; and the "Hours of Poll Act, 1885," appears to make it

(a) The Act comes into operation at the end of the present Parliament.

obligatory to keep open the poll from eight a.m. till eight p.m. It would certainly be a very imprudent thing to close the poll before the time.

How time is reckoned. The time for closing, as for opening the poll, is reckoned according to Greenwich mean time for places in Great Britain, and by Dublin mean time for places in Ireland. 43 & 44 Vict. c. 9, s. 2.

Effect of closing before time. In the *Harwich case*, 1 P. R. & D. 314, certain persons, who claimed the polling booths as a perquisite by a sort of prescription, commenced the work of demolition a little too soon, so that the polling was put a stop to somewhere about five minutes before the time, and it was proved that one voter was thus prevented from recording his vote. The election was held void.

It is not at all likely that this case would be followed now. In the *Limerick case*, P. & K. 355, where the returning officer had omitted to keep open the poll for the time required by law, but as the result of the election had not been affected thereby, the Committee refused to set aside the election.

The door of the polling station may be closed before the time, if there are sufficient voters within to occupy the presiding officer till the closing time. *Worcester*, 3 O'M. & H. 184.

Keeping open the poll beyond the proper time. In an Irish municipal election case, *Gribbin v. Kirker*, 7 Ir. R. C. L. 30, an election was declared void on account of the polling having continued for an hour beyond the proper time, although ballot papers were only issued to those who were in the polling station at the hour of closing.

The proper course to pursue would appear to be to issue a paper to any elector applying for one up to the

hour of closing, allowing all such papers to be placed in the ballot box, although at the moment this is done it may be after the hour.

It should be carefully borne in mind that irregularities in opening and closing the poll are not affected by section 13 of the Ballot Act, and also that there is a positive enactment that the poll is to be kept open till eight, and *no longer*. See 48 & 49 Vict. c. 10, s. 1.

Proceedings Subsequent to the Close of the Poll. The presiding officer at each station, as soon as practicable after the close of the poll, must, in the presence of the agents of the candidates, make up into separate packets, sealed with his own seal and the seals of such agents of the candidates as desire to affix them :—

1. The ballot box, unopened, but with the key attached.
2. The unused and spoilt ballot papers, placed together.
3. The tendered ballot papers.
4. The marked copy of the register of voters, and the counterfoils of the ballot papers.
5. The tendered votes list, and the list of votes marked by the presiding officer, and a statement of the number of voters whose votes are so marked by the presiding officer under the heads of “physical incapacity,” “Jews,” and “unable to read,” and the declarations of inability to read.

These packets are to be delivered to the returning officer. 35 & 36 Vict. c. 33, sched. I., r. 29.

The ballot paper account. The packets are to be accompanied by a statement called the ballot paper account, made by the presiding officer, showing the number of papers entrusted to him, and accounting for them under the heads of ballot papers in the ballot box,

unused, spoilt, and tendered ballot papers. 35 & 36 Vict. c. 33, sched. I. r. 30.

The packets, ballot box, sealed up so as to prevent the introduction of ballot papers, and ballot paper account, are to be handed over to the returning officer, who is to take charge of the same for the purpose of counting the votes. *Id.* s. 2.

CHAPTER V.

COUNTING THE VOTES.

Arrangements. The returning officer must make arrangements for counting the votes as soon as practicable after the close of the poll, and notice of the time and place must be given to the agents appointed on behalf of the candidates to attend. 35 & 36 Vict. c. 33, sched. I., r. 32. See also p. 34.

Hours of Counting. The returning officer must, as far as practicable, proceed continuously with the counting, allowing only time for refreshment, and excluding the hours between seven at night and nine on the following morning. *Id.* r. 35.

By arrangement, however, with the agents, the counting may commence or continue during the hours excluded. *Ibid.*

Who may be present. The returning officer, his assistants and clerks, and the agents of the candidates, and no other person, except with the sanction of the returning officer, may be present at the counting of the votes. *Id.* r. 33.

The candidates themselves have a right to be present. *Clementson v. Mason*, L. R. 10 C. P. 209.

Counting the Papers in each Ballot Box.

Before the returning officer proceeds to count the votes, he must, in the presence of such agents of the candidates as may be present, open each ballot box, take out, count and record the number of ballot papers found therein, and then mix together the whole of the ballot papers contained in the ballot boxes. *Id.* r. 34.

In many cases it is desirable that it should not be known, even generally, how particular districts voted, and the provision requiring all the ballot papers to be mixed together, was no doubt intended to keep secret the voting at particular polling stations. This, however, has been frustrated by the requirements of the latter part of the rule, which lays down, that—

The returning officer, while *counting and recording the number of ballot papers* and counting the votes, shall keep the ballot papers with their faces upwards, and take all proper precautions for preventing any person from seeing the numbers printed on the back.

As regards the counting of the votes, this provision, though of little practical value, is in harmony with the principles of the Ballot Act; but it is in direct conflict with those principles when applied to the earlier process of counting and recording the number of ballot papers, since by permitting the agents to see the faces of the ballot papers taken from a particular ballot box, they can ascertain the number of votes given for any candidate at the polling station at which the box was used. It moreover renders nugatory the part of the rule requiring all the ballot papers from the different boxes to be mixed together before commencing to count the votes.

During the excluded time (*i.e.*, from 7 p.m. to 9 a.m.), the returning officer should place the ballot papers and other documents relating to the election under his own seal and the seals of such agents of the candidates as desire to affix them, and should otherwise take proper

precautions for the security of such papers and documents. *Id.* r. 35.

Counting the Votes. The process of counting, especially in single member constituencies, where every valid paper can be marked for one candidate only, is exceedingly simple. The returning officer can employ a number of counters, determined by the number of registered electors in the constituency (see p. 80), and these he should arrange in pairs, together with an agent on behalf of each candidate. One of the counters should separate the ballot papers according to the candidate for whom they are marked, laying aside every paper not marked in strict accordance with the provisions of the Ballot Act. The other counter should count the number of votes given for each candidate in the presence of the agents, thus rendering error or fraud on the part of the counters impossible. The papers should be counted in tens, placing those given for the same candidate alternately crosswise.

The papers thus sorted, counted, and arranged in bundles of ten, should then be taken to a central table, and there, in the presence of the principal agents, entered on sheets specially ruled, to show when 100 papers have been counted. When this has been done, the papers are tied together and put away. This process is repeated till all the papers regularly marked have been entered.

Deciding Objections to Ballot Papers. The duty of deciding on doubtful ballot papers is imposed on the returning officer (or on his deputy when he is empowered to appoint one), and cannot be delegated. Home Office Abstract in Par. Paper 162 of 1876.

Decision, effect of. The decision of the returning officer as to any question arising in respect of any

ballot paper is final, subject to reversal on petition questioning the election or return. 35 & 36 Vict. c. 33, s. 2.

The returning officer must endorse "rejected" on any paper which he may reject as invalid, and must add to the endorsement "rejection objected to," if objection be made by any agent to his decision. *Id.* r. 36. The omission of the returning officer to make the endorsements will not avoid the election. *Woodward v. Sarsons*, L. R. 10 C. P. 753.

Invalid Ballot Papers. The returning officer must report to the clerk of the Crown in Chancery the number of ballot papers rejected by him under the several heads of—

1. WANT OF OFFICIAL MARK ;
2. VOTING FOR MORE CANDIDATES THAN ENTITLED TO ;
3. WRITING OR MARK BY WHICH VOTER COULD BE IDENTIFIED ;
4. UNMARKED, OR VOID FOR UNCERTAINTY.

The returning officer must, on request, allow any of the agents of the candidates to copy such report. *Id.* r. 36.

For want of the official mark. The papers wanting the official mark must be rejected, although the judge is satisfied that the mistake was made by the presiding officer or clerk.—*Wigtown case*, 2 O'M. & H. 223.

Writing or mark by which the voter can be identified. Papers have been rejected because of a name or initials written thereon—

- "A. C. Allan, clothier." *Wigtown case*.
- "E. Prews." *Woodward v. Sarsons*.
- "C. W." *Woodward v. Sarsons*.

Where the candidate's name was written by the voter in the space where the cross should have been placed. *Woodward v. Sarsons*.

Where a name is found written on the face of a ballot paper, it is immaterial whether it is the name of a voter in the register or not. *Wigtown case.*

The letter "P" placed after the X was held not to invalidate the paper.

A paper is not to be rejected because it is marked with ink instead of a pencil, if the ink be not peculiar. *Wigtown case.*

Where the presiding officer wrote the register number of the voters on their ballot papers, the papers were rejected. *Woodward v. Sarsons.*

Where a presiding officer folded up the ballot papers of illiterate voters in their "declarations of inability to read," this, though affording means of identification, was held not to invalidate the papers, because, in fact, no person had seen the names and numbers on the voters' declarations. *Ibid.*

A paper is not invalidated by being marked—

By two or more crosses instead of one.

By means of a star instead of a cross.

By a cross in the same space as the name, or in the space for the number of the candidate, to left of the name.

By a single stroke.

By a single stroke and a cross.

By a cross against one candidate's name, and the other candidate's name struck out.

A paper with a piece torn off was held to be valid. *Wigtown case.*

A paper torn through was also held to be valid. *Woodward v. Sarsons.*

These papers were objected to on the ground of affording means of identification. If evidence had been forthcoming that they were so marked for that purpose, they would have been rejected. *Woodward v. Sarsons, supra.*

Void for uncertainty. Where the **X** was partly in the space opposite one candidate's name, and partly in that opposite another's, the vote is good for the candidate opposite whose name the two limbs of the **X** intersect. *M'Laren v. Milne-Home*, 3 O'M. & H. 178; 44 L. T. 289; 7 Q. B. D. 477.

Although the mark does not discolour the ballot paper it may be well marked, as if done by a thumb nail or a blunt instrument. *Id.*

A Select Committee of the House of Commons, appointed to inquire into the working of the Ballot Act, state in their report that "Your Committee entertain the opinion that no ballot paper should be rejected unless it appears clearly to the returning officer that the obligatory portion of the Act has not been complied with; and that the marking of the ballot paper in a manner not in accordance with the "directions," should not cause its rejection, unless it appears to the returning officer that such departure from the directions has been for the purpose of identification, or would necessarily afford an opportunity for such identification being effected, or unless the returning officer is unable to determine for whom the voter intended to vote. * * * Your Committee further suggest that the Home Office should forward to every returning officer the case and judgment in *Woodward v. Sarsons*." Par. Pap. 162 of 1876, p. iv. (a).

Casting Vote. Where an equality of votes is found to exist between any candidates at an election, and the addition of a vote would entitle any of the candidates to be declared elected, the returning officer, *if a registered elector* of the county or borough in respect of which the election is held, may give a casting vote; but he is not in any other case entitled to vote at an

(a) Illustrations of the ballot papers given in the case of *Woodward v. Sarsons* are placed at the end of this work.

election for which he is returning officer. 35 & 36 Vict. c. 33, s. 2.

When a returning officer desires to give a casting vote, he should formally declare the candidate for whom he votes. The vote should then be added to the number recorded for that candidate, the number of votes given for each candidate read out, and the candidate having the majority declared duly elected.

Return. When the returning officer has ascertained the result of the poll, by counting the votes given to each candidate, he must forthwith declare to be elected the candidate or candidates to whom the majority of votes have been given, and return their names to the clerk of the Crown in Chancery. 35 & 36 Vict. c. 33, s. 2.

To be by certificate. This return is to be made by certificate under the hand of the returning officer of the names of the member or members elected, endorsed on the writ of election; and such certificate has the same effect, and must be dealt with in like manner, as the return under existing law. *Id.* r. 44.

Transmission of writ. The returning officer may, if he think fit, deliver the writ, with the certificate endorsed, to the postmaster of the principal post office of the place of election, or his deputy, taking a receipt for the same from the postmaster, or his deputy, as the case may be. The writ must then be forwarded by the first post, free of charge, under cover, to the clerk of the Crown, with the words "election writ and return" endorsed thereon. *Ibid.*

Double return. When the votes given for two or more candidates are equal, and the returning officer either has not, or prefers not to give, a casting vote,

he must return all the names, leaving it to the candidates to claim the seat on petition. *Sheil v. Ennis*, 2 O'M. & H. 186.

When there is a double return, there are two certificates endorsed on the writ, and both names are entered in the return books kept by the clerk of the Crown in Chancery. Both members may, therefore, claim to be sworn and take their seats, but neither can vote. The returning officer is forbidden to make double returns: 7 & 8 Will. 3, c. 7 (England); 35 Geo. 3, c. 29, s. 13; and 4 Geo. 4, c. 55, s. 68 (Ireland); but it is presumed the prohibition only extends to cases where the votes given for the candidates are not equal, for in Scotland a double return is directed to be made when there is an equality of votes: 2 & 3 Will. 4, c. 65, s. 36; and the House of Commons, in the *Helston case*, 1866, resolved that according to the law and usage of Parliament it is the duty of the sheriff or other returning officer in England in case of an equal number of votes being polled for two or more candidates at an election to return all such candidates. May's Parl. Pract. 644.

Special return. Where the election has not been carried out in the manner provided by law, a special return may be made setting forth the circumstances which have caused the irregularity. *Hackney case*, 2 O'M. & H. 77. In this case ballot boxes were not provided for some of the polling stations, and at others the poll was not opened at the proper time.

False return. All false returns wilfully made are prohibited, and the person duly elected may sue the returning officer and recover double damages and costs. 7 & 8 Will. 3, c. 7, s. 1.

Error in the return. Formerly the sheriff corrected mistakes in the return, but on the 12th April, 1690,

the House passed the following resolution: "That after a return made into the Crown Office of members to serve in Parliament, the same shall not be altered by the sheriff, or clerk of the Crown, or any other, but by this House."—10 Journ. 377. If an error should appear in the return to a writ, such as a mistake in the name of the member returned, or in the date of the return, or in the division of the county for which the return was made, evidence is given of the nature of the error, either by a member of the House or by some other person who was present at the election, and the clerk of the Crown is ordered to attend and amend. See May's Parl. Pract. 631.

No return made. If no return is made to the writ, the clerk of the Crown is ordered by the House to attend and explain the omission; and should it appear that the returning officer or other person is concerned in the delay, he will be summoned to attend. *Waterford*, 1806, 61 Journ. 169, 175; *Great Grimsby*, 1832, 81 Journ. 758, 762; and see 31 & 32 Vict. c. 125, s. 48.

Clerk of the Crown to enter return in a book. The clerk of the Crown must enter every return, whether single or double, in a book kept for the purpose, within six days after the same shall have come into his office. Every amendment or alteration of a return must also be entered. If the clerk of the Crown fails to enter the return, or makes any alteration therein, he is to forfeit 500*l.* and lose his office. 7 & 8 Will. 3, c. 7, s. 5.

Public Notice of Candidates elected. As soon as possible after he has ascertained the result of the poll, the returning officer is required to give public notice of the names of the candidates elected, and of

the total number of votes given for each candidate, whether elected or not. 35 & 36 Vict. c. 33, sched. I. r. 45.

Disposal of the Ballot Papers, &c. The writ having been disposed of, the returning officer must turn his attention to the ballot papers and other returns connected therewith. The proceedings described in the present section may, however, precede the declaration of the poll, if deemed advisable.

Verification of ballot paper account. The returning officer, on the completion of the counting, must seal up separately the counted and rejected ballot papers, and must, in the presence of the agents, proceed to verify the ballot paper account given by each presiding officer by comparing it with the number of ballot papers which were found in the ballot box used at the station to which the account relates (see p. 55) and the unused and spoilt ballot papers handed to him by such presiding officer. The returning officer must not open the sealed packets of tendered ballot papers, but must verify the tendered ballot paper account by comparing it with the unused and spoilt tendered ballot papers and also with the tendered votes list. Each sealed packet must be resealed after examination. He must report to the clerk of the Crown the result of the verification, and on request allow any of the agents of the candidates to copy it. *Id.* r. 37.

Transmission to clerk of the Crown. Before the passing of the Ballot Act, 1872, the poll books were either delivered direct to the clerk of the Crown, or else addressed to him and handed to the postmaster or deputy postmaster of the nearest town, who was to give an acknowledgment in writing of the receipt of the same, expressing therein the time of delivery, and

also keep a duplicate, signed by the returning officer or his deputy. The poll books were required to be sent by the next mail to London, and immediately delivered to the clerk of the Crown. 6 Vict. c. 18, s. 93.

The returning officer was required to send by the mail by which the poll books were transmitted a letter to the clerk of the Crown, informing him of such transmission, and giving him the number and description of the books transmitted. *Ibid.*

The omission on the part of the returning officer to send the above-mentioned letter to the clerk of the Crown was held not to prevent the poll books being received in evidence (*Barnstaple*, 2 P. R. & D. 206), and therefore would not now prevent the ballot papers and other documents being so received.

The clerk of the Crown was required to give to the person delivering the poll books a receipt for the same, register them in a book, and endorse thereon the day and hour of receipt.

The above provisions as to the transmission of the poll books are extended to the ballot papers and other documents (a list of which is given below) which the Ballot Act requires to be sent to the clerk of the Crown. Each packet is to be endorsed with a description of the contents, the date of the election, and place for which it was held.

1. Ballot paper accounts.
2. Report on the verification of the ballot paper accounts.
3. Report on the rejected ballot papers (a).
4. All the ballot papers in the returning officer's possession.
5. Tendered votes lists.

(a) See p. 57.

6. Lists of votes marked by the presiding officers and statements relating thereto (these statements are usually made on the lists of votes marked by the presiding officers), and declarations of inability to read.
7. Packets of counterfoils and marked copies of the register of voters. 35 & 36 Vict. c. 33, r. 38.

In *Scotland* the above documents are to be sent to the sheriff clerks of the various counties instead of to the clerk of the Crown. *Id.* r. 59.

CHAPTER VI.

RETURNING OFFICER'S EXPENSES.

By whom Payable. The returning officer at an election is entitled to his reasonable charges, not exceeding the sums mentioned in Schedule I. of the Returning Officers Act, 1875. The charges are to be paid by the candidates in equal shares, or if there is only one candidate, by such candidate. 38 & 39 Vict. c. 84, s. 2 (*England and Ireland*). If a candidate is nominated without his consent, the *persons subscribing his nomination paper* are jointly and severally liable. *Ibid.*

In *Scotland*, the ballot boxes, ballot papers, and other requisites are to be provided and paid for in the same manner as polling-rooms or booths under the 40th section of 2 & 3 Will. 4, c. 65, and the reasonable remuneration of presiding officers, assistants, and clerks, and all other expenses properly incurred by the returning officer, and by the sheriff clerks and town

clerks, in carrying into effect the provisions of the Ballot Act, shall be paid by the candidates (for amounts, see p. 79). 35 & 36 Vict. c. 33, s. 16 (5).

If a person is proposed as a candidate without his consent the *person so proposing him* shall be liable to defray his share of the expenses as if he had been a candidate himself. *Ibid.*

Polling-booths were authorized to be erected at the joint and equal expense of the candidates. 2 & 3 Will. 4, c. 65, s. 40; 31 & 32 Vict. c. 48, s. 26.

In *Ireland*, a returning officer is not entitled to claim any sum other than that actually and necessarily incurred by him, any statute notwithstanding; nor must the expense of providing sufficient polling-stations and compartments exceed the sum now allowed by law. 35 & 36 Vict. c. 33, s. 17 (4); see also 38 & 39 Vict. c. 84.

Security. The returning officer is now entitled to demand security for his charges, and any candidate who fails to give such security within one hour after the two hours appointed for the election is deemed to be withdrawn. The security may be given by the deposit of any legal tender, or of bank notes commonly current in the county or borough for which the election is held, or, with the consent of the returning officer, in any other manner. The amount of security must be apportioned equally among the several candidates, and not exceed the amounts mentioned in the schedules to 38 & 39 Vict. c. 84 (*England and Ireland*); and 41 & 42 Vict. c. 41 (*Scotland*), as amended by 48 & 49 Vict. c. 62.

**SCHEDULE OF THE MAXIMUM AMOUNT OF SECURITY WHICH
MAY BE REQUIRED BY A RETURNING OFFICER.**

(38 & 39 Vict. c. 84, Sched. III.; 41 & 42 Vict. c. 41.)

| | County or District of Contributory Borough. | Borough. |
|--|--|----------|
| | £ | £ |
| Where the registered electors do not exceed 1,000 | 150 | 100 |
| Where the registered electors exceed 1,000 but do not exceed 2,000 | 200 | 150 |
| Where the registered electors exceed 2,000 but do not exceed 4,000 | 275 | 200 |
| Where the registered electors exceed 4,000 but do not exceed 7,000 | 400 | 250 |
| Where the registered electors exceed 7,000 but do not exceed 10,000 | 550 | 300 |
| Where the registered electors exceed 10,000 but do not exceed 15,000 | 700 | 450 |
| Where the registered electors exceed 15,000 but do not exceed 20,000 | 800 | 500 |
| Where the registered electors exceed 20,000 but do not exceed 30,000 | 900 | 600 |
| Where the registered electors exceed 30,000 | 1,000 | 700 |

If at the end of the two hours appointed for the election not more candidates stand nominated than there are vacancies to be filled up, the maximum amount which may be required is twenty-five pounds. 48 & 49 Vict. c. 62, ss. 2, 3.

This security may be given by any person. The balance of the deposit, if any, is to be returned to the person making the deposit. 38 & 39 Vict. c. 84, s. 3.

Claims against the Returning Officer. Appended to the notice of election (see p. 76) is a notice contained in the second schedule of 38 & 39 Vict. c. 84, to the effect that all persons having claims against the returning officer in connection with the election (except the publication of the accounts of election expenses) must send detailed particulars of such claim to the returning officer in writing within fourteen days after the day on which the return is made. The returning officer is not liable in respect of anything which is not duly stated.

Time is computed as in the Ballot Act, 1872. Sundays, Christmas Day, Good Friday, and public fasts and thanksgiving days are excluded. See 35 & 36 Vict. c. 33, r. 58.

Returning Officer's Claims against the Candidate. Within twenty-one days after the day on which the return is made of the persons elected the returning officer is required to transmit to the election agent of each candidate (he need not to the candidate himself), or other person from whom he claims payment either out of any deposit or otherwise, a detailed account (but not the vouchers) of all the charges claimed by him in respect of the election, and the share which he claims from the person to whom the account is transmitted. 38 & 39 Vict. c. 84, s. 4; 46 & 47 Vict. c. 51, s. 32 (2).

The returning officer must annex to the account a notice of the place where the *vouchers* relating to the account may be seen, and must at all reasonable times, and without charge, allow the person from whom payment is claimed, or his agent, to inspect and take copies of the same. 38 & 39 Vict. c. 84, s. 4.

The returning officer is not entitled to any charges which are not duly included in the account. *Ibid.*

Taxation. If the person from whom payment is claimed objects to any part of the claim, he may apply to the court (see next paragraph) for the taxation of the account. The court shall determine the amount payable, and give and enforce judgment for the same as if such judgment were a judgment in an action in such court, with or without costs, at the discretion of the court. *Ibid.*

Courts having power to tax. The court above referred to is in the city of London the Lord Mayor's Court, and elsewhere in England the county court, and in Ireland the Civil Bill Court having jurisdiction at the place of nomination for the election to which the proceedings relate. *Ibid.*

The court may depute any of its powers or duties to the registrar or principal officer of the court. *Ibid.*

The above provisions do not apply to the returning officer's charges for the publication of accounts of election expenses. *Ibid.*

Taxation of claims against the returning officer. Where application is made for taxation of the returning officer's account, he may apply to have any claim transmitted to him examined by the court, and the court may, after notice to the person making the claim, and after hearing him and any evidence tendered by him, allow, disallow, or reduce the claim objected to, with or without costs, and the determination shall be final. *Id.* s. 5.

By section 14 of the Ballot Act, 1872, where a parliamentary and municipal borough occupy whole or part of the same area, it is the duty of the returning officer to use, if practicable, the ballot boxes, fittings, and compartments provided for the municipal or school board elections, and the court, upon the taxation of his accounts, shall have regard to the provisions of that section. *Id.* s. 6.

Publication of Expenses. Within thirty-five days (a) after the day on which the return is made, the election agent of every candidate at an election must transmit to the returning officer a true return, in the form set forth in the second schedule of the Corrupt and Illegal Practices Prevention Act, 1883, containing, as respects that candidate :—

(1.) A statement of all payments made by the agent; (2.) Personal expenses of the candidate; (3.) Sums paid to the returning officer; (4.) Of disputed claims; (5.) Unpaid claims; (6.) A statement of all money, securities, and equivalents of money received by the election agent, accompanied by the requisite declarations. 46 & 47 Vict. c. 51, s. 33 (1).

The candidate whose return and declarations have not been transmitted within the time limited is prohibited from sitting and voting until they have been transmitted. *Id.* s. 33 (5).

The returning officer must within ten days (a) *after he receives* a return from the election agent of a candidate publish a summary thereof in not less than two newspapers circulating in the county or borough for which the election was held, accompanied by a notice of the time and place at which the return, declarations, and accompanying documents may be inspected. 46 & 47 Vict. c. 51, s. 35 (1)

The returning officer may charge the candidate in respect of the publication two guineas for a county or district borough, and one guinea for a borough other than a district borough election. *Ibid.*

The returning officer must keep the above-mentioned documents at his office, or some convenient place appointed by him, and they shall, at all reasonable times, within the two years next after they have been received, be open to inspection by any person on pay-

(a) Sundays, Christmas Day, Good Friday, public fasts, &c., are included in this period.

ment of one shilling, and the returning officer shall on demand furnish copies thereof, or any part thereof, at the price of twopence for every seventy-two words. *Id.* s. 35 (2).

At the expiration of two years they may be destroyed, or, if the candidate or his election agent so require, they must be returned to him. *Ibid.*

SCHEDULE.

CHARGES OF RETURNING OFFICERS (b).

The following are the maximum charges to be made by the returning officer, but the charges are in no case to exceed the sums actually and necessarily paid or payable.

PART I.—COUNTIES AND DISTRICT OR CONTRIBUTORY BOROUGHES.

This part of this schedule applies to an election for a county or for any borough or burgh consisting of a combination of separate boroughs, burghs, or towns.

| | £ | s. | d. |
|--|---|----|----|
| For preparing and publishing the notice of election | 2 | 2 | 0 |
| For preparing and supplying the nomination papers | 1 | 1 | 0 |
| For travelling to and from the place of nomination, or of declaring the poll at a contested election, per mile | 0 | 1 | 0 |
| For hire or necessary fitting up of rooms or buildings for polling, or damage or expenses by or for use of such rooms or buildings | The necessary expenses, not exceeding at any one polling station the charge for constructing and fitting a polling station. | | |

(b) An alphabetical list of these charges will be found on p. 78, *post.*

SCHEDULE—continued.

| | £ | s. | d. |
|---|---|----|----|
| For constructing a polling station, with its fittings and compartments, in England | 7 | 7 | 0 |
| And in Ireland the sum or sums payable under the provisions of 13 & 14 Vict. c. 68, and 35 & 36 Vict. c. 33. | | | |
| In Ireland the returning officer shall use a court house, where one is available, as a polling station, and his maximum charge for using and fitting the same shall in no case exceed three pounds three shillings. | | | |
| For each ballot box required to be purchased | 1 | 1 | 0 |
| For the use of each ballot box, when hired | 0 | 5 | 0 |
| For stationery at each polling station - | 0 | 10 | 0 |
| For printing and providing ballot papers, per thousand | 1 | 10 | 0 |
| For each stamping instrument - - - | 0 | 10 | 0 |
| For copies of the register - - - | The sums payable by statute for the necessary copies. | | |
| | 3 | 3 | 0 |
| For each presiding officer - - - | 1 | 1 | 0 |
| For one clerk at each polling station where not more than 500 voters are assigned to such station | | | |
| For an additional clerk at a polling station for every number of 500 voters, or fraction thereof beyond the first 500 assigned to such polling station | 1 | 1 | 0 |
| For every person employed in counting votes, not exceeding six such persons where the number of registered electors does not exceed 3,000, and one for every additional 2,000 electors | 1 | 1 | 0 |
| For making the return to the clerk of the Crown | 1 | 1 | 0 |

SCHEDULE—*continued.*

| | £ s. d. |
|--|---|
| For the preparation and publication of notices (other than the notice of election). | Not exceeding for the whole of such notices £20, and £1 for every additional 1,000 electors above 3,000. |
| | 0 1 0 |
| For conveyance of ballot boxes from the polling stations to the place where the ballot papers are to be counted, per mile. | |
| For professional and other assistance in and about the conduct of the election. | In a contested election not exceeding £25, and an additional £3 for every 1,000 registered electors or fraction thereof above 3,000 and up to 10,000, and £2 for every 1,000 or fraction thereof above 10,000. In an uncontested election, one fifth of the above sums. |
| | 0 1 0 |
| For travelling expenses of presiding officers and clerks, per mile. | |
| For services and expenses in relation to receiving and publishing accounts of election expenses, in respect of each candidate. | 2 2 0 |
| For all other expenses | In a contested election, not exceeding £10, and an additional £1 for every 1,000 electors or fraction thereof above 1,000. In an uncontested election, nil. |

NOTE.—Travelling expenses are not to be allowed in the case of any person unless for distances exceeding two miles from the place at which he resides.

SCHEDULE—continued.

PART II.—BOROUGHES.

This Part of the Schedule applies to all boroughs not included in Part I. of this Schedule.

| | £ | s. | d. |
|---|---|----|----|
| For preparing and publishing the notice of election. | 2 | 2 | 0 |
| For preparing and supplying the nomination papers. | 1 | 1 | 0 |
| For hire or necessary fitting up of rooms or buildings for polling, or damage or expenses by or for use of such rooms or buildings. | The necessary expenses, not exceeding at any one polling station the charge for constructing and fitting a polling station. | | |
| In England, for constructing a polling station, with its fittings and compartments, not exceeding two in number. | 7 | 7 | 0 |
| For each compartment required to be constructed, when more than two be used. | 1 | 1 | 0 |
| For the use of each compartment hired, when more than two are used. | 0 | 5 | 0 |
| And in Ireland, in lieu of the charges payable in respect of the foregoing last three services, the sum or sums payable under the provisions of 13 & 14 Vict. c. 68, and 35 & 36 Vict. c. 33. | | | |
| For each ballot box required to be purchased. | 1 | 1 | 0 |
| For the use of each ballot box when hired. | 0 | 5 | 0 |
| For stationery at each polling station - | 0 | 10 | 0 |
| For printing and providing ballot papers, per thousand. | 1 | 10 | 0 |
| For each stamping instrument - - | 0 | 10 | 0 |
| For copies of the register - - | The sums payable by statute for the necessary copies. | | |

SCHEDULE—continued.

| | £ | s. | d. |
|---|---|----|----|
| For each presiding officer | 3 | 3 | 0 |
| For one clerk at each polling station where not more than 500 voters are assigned to such station. | 1 | 1 | 0 |
| For an additional clerk at a polling station for every number of 500 voters, or fraction thereof beyond the first 500 assigned to such station. | 1 | 1 | 0 |
| For every person employed in counting votes, not exceeding six such persons where the number of registered elec- tors does not exceed 3,000, and one for every additional 2,000 electors. | 1 | 1 | 0 |
| For making the return to the clerk of the Crown. | 1 | 1 | 0 |
| For the preparation and publication of notices (other than the notice of election). | Not exceeding for the whole of such no- tices £10, and £1 for every addi- tional 1,000 elec- tors above 1,000. | | |
| For professional and other assistance in and about the conduct of the election. | In a contested elec- tion, not exceeding £20, an additional £2 for every 1,000 registered electors or fraction thereof above 1,000 and up to 10,000, and £1 additional for every 1,000 or fraction thereof above 10,000. In an un- contested election one fifth of the above sum. | | |
| For services and expenses in relation to receiving and publishing accounts of election expenses in respect of each candidate. | 1 | 1 | 0 |

SCHEDULE—continued.

| | | |
|------------------------|-------|---|
| For all other expenses | - - - | Not exceeding £10, and an additional £1 for every 1,000 electors above the first 1,000. |
|------------------------|-------|---|

NOTE TO PARTS I. AND II. OF SCHEDULE I.

The above sums are the aggregate charges, the amount of which is to be apportioned among the several candidates or other persons liable for the same.

SECOND SCHEDULE.

1. *Notification to be added to the Notice of Election.*

Take notice, that by the Parliamentary Elections (Returning Officers) Act, 1875, it is provided that every person having any claim against a returning officer for work, labour, materials, services, or expenses in respect of any contract made with him by or on behalf of the returning officer, for the purposes of an election (except for publications of account of election expenses), shall, within fourteen days after the day on which the return is made of the person or persons elected at the election, transmit to the returning officer the detailed particulars of such claim in writing, and the returning officer shall not be liable in respect of anything which is not duly stated in such particulars.

RETURNING OFFICER'S CHARGES.

1. The following are the *maximum* charges, but they are in no case to exceed the sums actually paid.

2. The amount is to be apportioned among the several candidates or persons liable.

3. If a candidate has been nominated without his consent, the persons subscribing his nomination paper are liable for his share of the expenses.

4. In Parliamentary Boroughs the ballot boxes, compartments, and fittings provided for Municipal and School Board Elections must be used whenever practicable. [See page 29.]

5. Claims against the returning officer must be made within 14 days after the day on which the return is made. Sundays, Christmas Day, Good Friday, public fasts, and public thanksgiving days are not reckoned.

6. Claims against the candidates' election agents to be sent in within 21 days after the day on which the return is made. Claims which are not sent in within the prescribed time cannot be paid. Notice of the time and place where the vouchers can be seen should accompany the returning officer's claim against the candidates.

Appended is a list of charges alphabetically arranged for facility of reference.

RETURNING OFFICER'S EXPENSES.

| Nature of Service. | Counties and District Boroughs. | All other Boroughs. |
|---|--|------------------------|
| | £ s. d. | £ s. d. |
| BALLOT BOXES—Conveyance of, per mile | 0 1 0 | |
| Purchased, each | 1 1 0 | 1 1 0 |
| Hired | 0 5 0 | 0 5 0 |
| BALLOT PAPERS—Per 1,000 | 1 10 0 | 1 10 0 |
| CLERK—Fee to | 1 1 0 | 1 1 0 |
| Number to be employed (see Table I.) | (a) | |
| COUNTING VOTES—For each person engaged (see Table II., p. 80) ... | 1 1 0 | 1 1 0 |
| EXPENSES—Not otherwise provided for— | | |
| Not exceeding 1,000 electors | 10 0 0 | |
| For every additional 1,000, or <i>fraction</i> thereof | 1 0 0 | |
| In an uncontested election | <i>Nil.</i> | |
| Under 2,000 | | 10 0 0 |
| For every additional 1,000 above the first | | 1 0 0 |
| NOMINATION PAPERS—For supplying ... | 1 1 0 | 1 1 0 |
| NOTICE OF ELECTION—Preparing and publishing | 2 2 0 | 2 2 0 |
| NOTICES—Other than notice of election (see Table III., p. 81) | | |
| ENGLAND. | | |
| POLLING STATION—For constructing ... | 7 7 0 | |
| And in boroughs, with not more than two compartments | | 7 7 0 |
| For each compartment more than two ... | | 1 1 0 |
| „ „ hired... .. | | 0 5 0 |
| Hire or necessary fitting up of rooms not to exceed cost of constructing. | | |

(a) In a *county* constituency in *England* the returning officer may charge £4 4s. for each presiding officer, and 30s. for each clerk at a polling station. 48 & 49 Vict. c. 62, s. 4.

RETURNING OFFICER'S EXPENSES—*continued.*

| Nature of Service. | Counties and District Boroughs. | All other Boroughs. |
|--|--|------------------------|
| IRELAND. | | |
| POLLING BOOTH, with fittings, in public building | £ s. d. 3 0 0 | £ s. d. 3 0 0 |
| Not in public building | 5 0 0 | 5 0 0 |
| In court-house, fittings and use ... | 3 3 0 | |
| ENGLAND AND IRELAND. | | |
| PRESIDING OFFICER—Fee (<i>b</i>) | 3 3 0 | 3 3 0 |
| PROFESSIONAL ASSISTANCE—See Table IV. | | |
| PUBLICATION OF ELECTION EXPENSES— | | |
| Each candidate | 2 2 0 | 1 1 0 |
| REGISTER OF VOTERS—The sum fixed by law. | | |
| RETURN—Making | 1 1 0 | 1 1 0 |
| STAMPING INSTRUMENT | 0 10 0 | 0 10 0 |
| STATIONERY for each polling station ... | 0 10 0 | 0 10 0 |
| TRAVELLING—Returning officers, presiding officers, and clerks, per mile. | 0 1 0 | |
| <i>Note.</i> —Travelling expenses not to be allowed unless for distances exceeding two miles from the officer's residence. | | |
| SCOTLAND. | | |
| | Counties. | Boroughs. |
| The expenses are not to exceed—For | | |
| Polling station | 30 0 0 | 20 0 0 |
| Deputy returning officer, see p. 82. | | |
| Presiding officer | 3 3 0 | 3 3 0 |
| Clerk | 1 1 0 | 1 1 0 |
| Assistant to the returning officer ... | 1 1 0 | 1 1 0 |

(*b*) See note on preceding page.

In Scotland the polling stations are to be erected or hired by contract with the candidates, or, if they cannot agree, by the sheriff clerk. The candidates must pay the expenses of the transmission of intimations, ballot papers, and other communications.

If a candidate has been nominated without his consent, his proposer must pay the returning officer's charges.

TABLE I.

NUMBER OF CLERKS THAT MAY BE EMPLOYED AT EACH POLLING DISTRICT.

Where the voters assigned to the polling station are:—

| | | | | | |
|------|----------------|-----|-----|-----|-----------|
| From | 1 to 500 | ... | ... | ... | 1 clerk. |
| " | 501 to 1,000 | ... | ... | ... | 2 clerks. |
| " | 1,001 to 1,500 | ... | ... | ... | 3 " |
| " | 1,501 to 2,000 | ... | ... | ... | 4 " |

And an additional clerk for every 500 voters or fraction thereof.

TABLE II.

THE NUMBER OF COUNTING ASSISTANTS THAT MAY BE EMPLOYED IN COUNTING THE VOTES.

Where the registered electors are—

| | | | | | |
|------|------------------|-----|-----|-----|------------|
| From | 1 to 4,999 | ... | ... | ... | 6 persons. |
| " | 5,000 to 6,999 | ... | ... | ... | 7 " |
| " | 7,000 to 8,999 | ... | ... | ... | 8 " |
| " | 9,000 to 10,999 | ... | ... | ... | 9 " |
| " | 11,000 to 12,999 | ... | ... | ... | 10 " |
| " | 13,000 to 14,999 | ... | ... | ... | 11 " |
| " | 15,000 to 16,999 | ... | ... | ... | 12 " |
| " | 17,000 to 18,999 | ... | ... | ... | 13 " |
| " | 19,000 to 20,999 | ... | ... | ... | 14 " |
| " | 21,000 to 22,999 | ... | ... | ... | 15 " |
| " | 23,000 to 24,999 | ... | ... | ... | 16 " |
| " | 25,000 to 26,999 | ... | ... | ... | 17 " |
| " | 27,000 to 28,999 | ... | ... | ... | 18 " |
| " | 29,000 to 30,999 | ... | ... | ... | 19 " |
| " | 31,000 to 32,999 | ... | ... | ... | 20 " |

And one for every additional 2,000 electors.

N.B.—No allowance is made for a fractional part of 2,000.

TABLE III.

PREPARATION AND PUBLICATION OF NOTICES.

| Number of Electors. | | | | | | Counties and District Boroughs. | Other Boroughs. |
|---------------------|-----------|--------|-----|-----|-----|---------------------------------------|--------------------|
| | | | | | | £ | £ |
| From | 1 to | 1,999 | ... | ... | ... | 20 | 10 |
| " | 2,000 to | 2,999 | ... | ... | ... | 20 | 11 |
| " | 3,000 to | 3,999 | ... | ... | ... | 20 | 12 |
| " | 4,000 to | 4,999 | ... | ... | ... | 21 | 13 |
| " | 5,000 to | 5,999 | ... | ... | ... | 22 | 14 |
| " | 6,000 to | 6,999 | ... | ... | ... | 23 | 15 |
| " | 7,000 to | 7,999 | ... | ... | ... | 24 | 16 |
| " | 8,000 to | 8,999 | ... | ... | ... | 25 | 17 |
| " | 9,000 to | 9,999 | ... | ... | ... | 26 | 18 |
| " | 10,000 to | 10,999 | ... | ... | ... | 27 | 19 |
| " | 11,000 to | 11,999 | ... | ... | ... | 28 | 20 |
| " | 12,000 to | 12,999 | ... | ... | ... | 29 | 21 |
| " | 13,000 to | 13,999 | ... | ... | ... | 30 | 22 |
| " | 14,000 to | 14,999 | ... | ... | ... | 31 | 23 |
| " | 15,000 to | 15,999 | ... | ... | ... | 32 | 24 |
| " | 16,000 to | 16,999 | ... | ... | ... | 33 | 25 |
| " | 17,000 to | 17,999 | ... | ... | ... | 34 | 26 |
| " | 18,000 to | 18,999 | ... | ... | ... | 35 | 27 |
| " | 19,000 to | 19,999 | ... | ... | ... | 36 | 28 |
| " | 20,000 to | 20,999 | ... | ... | ... | 37 | 29 |
| " | 21,000 to | 21,999 | ... | ... | ... | 38 | 30 |
| " | 22,000 to | 22,999 | ... | ... | ... | 39 | 31 |
| " | 23,000 to | 23,999 | ... | ... | ... | 40 | 32 |
| " | 24,000 to | 24,999 | ... | ... | ... | 41 | 33 |
| " | 25,000 to | 25,999 | ... | ... | ... | 42 | 34 |
| " | 26,000 to | 26,999 | ... | ... | ... | 43 | 35 |
| " | 27,000 to | 27,999 | ... | ... | ... | 44 | 36 |
| " | 28,000 to | 28,999 | ... | ... | ... | 45 | 37 |
| " | 29,000 to | 29,999 | ... | ... | ... | 46 | 38 |
| " | 30,000 to | 30,999 | ... | ... | ... | 47 | 39 |

And £1 for every additional 1,000 electors.

E 3

TABLE IV.
PROFESSIONAL AND OTHER ASSISTANCE.

| Number of Electors. | Counties and District Boroughs. | | | Other Boroughs. | | |
|-----------------------|---------------------------------|-----------------------|-------|---------------------|-----------------------|-------|
| | Contested Election. | Uncontested Election. | | Contested Election. | Uncontested Election. | |
| | £ | £ | s. d. | £ | £ | s. d. |
| From 1 to 1,000 ... | 25 | 5 | 0 0 | 20 | 4 | 0 0 |
| „ 1,001 to 2,000 ... | 25 | 5 | 0 0 | 22 | 4 | 0 0 |
| „ 2,001 to 3,000 ... | 25 | 5 | 0 0 | 24 | 4 | 16 0 |
| „ 3,001 to 4,000 ... | 28 | 5 | 12 0 | 26 | 5 | 4 0 |
| „ 4,001 to 5,000 ... | 31 | 6 | 4 0 | 28 | 5 | 12 0 |
| „ 5,001 to 6,000 ... | 34 | 6 | 16 0 | 30 | 6 | 0 0 |
| „ 6,001 to 7,000 ... | 37 | 7 | 8 0 | 32 | 6 | 8 0 |
| „ 7,001 to 8,000 ... | 40 | 8 | 0 0 | 34 | 6 | 16 0 |
| „ 8,001 to 9,000 ... | 43 | 8 | 12 0 | 36 | 7 | 4 0 |
| „ 9,001 to 10,000 ... | 46 | 9 | 4 0 | 38 | 7 | 12 0 |

In *counties and district boroughs*, £2 for every 1,000 electors, or fraction of 1,000, over 10,000 in contested elections; in uncontested elections, one-fifth of that sum.

In *other boroughs*, £1 for every 1,000 electors, or fraction of 1,000, in contested elections; in uncontested elections, one-fifth of that sum.

DEPUTY RETURNING OFFICER.

In *Scotland*, where a returning officer is empowered to appoint a deputy, he may at a contested election pay such deputy at the rate of 30s. for every thousand or part of a thousand electors; at an uncontested election 10s. for every thousand or part of a thousand electors. 48 & 49 Vict. c. 62, s. 5.

PART II.

THE CANDIDATE AND AGENT.

CHAPTER I.

PERSONS DISQUALIFIED TO BE ELECTED.

The grounds of disqualification for a seat in parliament are numerous and by no means easy of classification. It is proposed to treat of them under the following heads: (a.) Disqualification on account of the office or position a person holds; or (b.) On account of some offence committed by him; and (c.) Miscellaneous grounds of disqualification.

Judicial Officers. The following judicial officers are disqualified:

All the *judges* of the High Court of Justice and the Court of Appeal in *England*—38 & 39 Vict. c. 77, s. 5; *Ireland*—40 & 41 Vict. c. 57, s. 13.

The *judges* of the Superior Courts in *Scotland*. 7 Geo. 2, c. 16, s. 4.

Irish Land Commissioners and Assistant Commissioners. 44 & 45 Vict. c. 49, s. 54.

Recorders for the boroughs for which they are appointed—45 & 46 Vict. c. 50, s. 163 (6) (*England*); 3 & 4 Vict. c. 108, s. 166 (*Ireland*).

County court judges (*England*), except the present judge of the City of London Court. 25 & 26 Vict. c. 99, s. 4; 30 & 31 Vict. c. 142, s. 35.

County court judges in *Ireland*, and chairmen of quarter sessions formerly called assistant barristers. 14 & 15 Vict. c. 57, s. 2.

Registrars in Bankruptcy. No registrar or other officer attached to any court, having jurisdiction in

bankruptcy, is capable of being elected a member of the House of Commons. 46 & 47 Vict. c. 52, s. 116 (1).

Registrar of deeds. The registrars or deputy registrars of deeds for the county of Middlesex are ineligible. 7 Anne, c. 20, s. 21.

Officers Connected with Elections. *Returning officers.* Sheriffs are ineligible for the counties for which they are sheriffs at the time of the election (*Sir Andrew Nowell's case*, D'Ewes, 665). It was also held that a sheriff was ineligible for any borough within his county and to which he sent his precept (*Abingdon*, 1 Doug. 419). Writs for boroughs are now to be sent to the returning officer, and not the sheriff (16 & 17 Vict. c. 68, s. 1 (*England*); 25 & 26 Vict. c. 92, s. 3 (*Ireland*)), and it is therefore submitted that the sheriff is not disqualified for a borough within his county for which another person is returning officer.

The sheriff of one county is eligible for any other county (*Sir Edward Coke's case*, 1625), or for a borough not within his jurisdiction. *Southampton case*, 4 Doug. 87; *Wells, Id.* 123.

In *Scotland* sheriff-deputes, sheriff-substitutes, sheriff-clerks, and deputy sheriff clerks are ineligible for their counties; and town clerks and deputy town clerks for their city, burgh, or town. 21 Geo. 2, c. 19, s. 11; 2 & 3 Will. 4, c. 65, s. 36.

Mayors, bailiffs, &c. In the *Thetford case*, 9 Journ. 725, it was resolved that, "no mayor, bailiff, or other officer of a borough, who is the proper officer to whom the precept ought to be directed, is capable of being elected to serve in parliament for the same borough for which he is mayor, bailiff, or officer at the time of election." This applies to returning officers appointed by the sheriff. *Wakefield case*, Bar. & Aust. 295.

Sheriffs may resign their offices before the election, if the permission of the Crown can be obtained, so as to

be eligible for election. *See Drogheda case*, P.P. 255, sess. 2, 1857. Mayors may also resign by paying a fine. 45 & 46 Vict. c. 50, s. 36; Arnold's *Municipal Corporations*, 3rd edit., p. 86. The returning officers appointed by the sheriff cannot resign. *Wakefield case*, *supra*.

Revising barristers. In England a revising barrister is ineligible for the county, riding, parts or division of a county, or for any city, borough, or other place for which he has been appointed, for eighteen calendar months from the time of his appointment. 6 Vict. c. 18, s. 28.

Civil Offices. With a view to preserving the independence of the House of Commons, the Act of Settlement (12 & 13 Will. 3, c. 2, s. 3), provided for the exclusion of every civil and military officer from the House of Commons. Before the Act came into operation, however, it was considered expedient to modify its provisions, and by 6 Ann. c. 41, it was enacted that :

“No person who shall have in his own name, or in the name of any person or persons in trust for him, or for his benefit, any *new* office or place of profit whatsoever under the Crown, which at any time since the 25th October, 1705, have been created or erected, or hereafter shall be created or erected, shall be capable of being elected.” s. 25.

An old office does not become a new one by the transfer of the patronage to the Crown (*Galway case*, F. & F. 579—but see *Cambridge case*), by change of name (*North Berwick*, 2 Doug. 423), or by an increase of salary (*Saltash*, 2 Doug. 441; *Galway*, *supra*).

By the same section it was enacted that no governor or deputy governor of any of the plantations, nor any person having a pension from the Crown during pleasure (extended to persons holding pensions from the Crown during a term of years—1 Geo. 1, stat. 2, c. 56 (*England*); 33 Geo. 3, c. 41, s. 1 (*Irish Act*)), shall be capable of being elected.

It is provided that if any member accepts an office of profit from the Crown his seat becomes vacant, but such person is capable of being elected. 6 Ann. c. 41, s. 26. This last section refers to *old* offices only, *i.e.*, an office created prior to 25th October, 1705.

It follows therefore that a person who holds an office of profit, whether *under* or *from* the Crown, created before 25th October, 1705, is capable of being elected.

Persons who hold offices created since that time are ineligible, unless declared qualified to sit by Act of parliament. See p. 97.

Holders of civil service and diplomatic pensions are not disqualified. 32 & 33 Vict. c. 15; *Id.* c. 43, s. 17.

Officers in the Army and Navy are eligible, as are also officers in the yeomanry, militia, volunteers, naval artillery volunteers, and local militia, England and Scotland. 44 Geo. 3, c. 54, s. 58; 45 & 46 Vict. c. 49, s. 38; 26 & 27 Vict. c. 65, s. 5; 36 & 37 Vict. c. 77, s. 6; 52 Geo. 3, c. 38, s. 195; *Id.* c. 68, s. 177.

The governor, or lieutenant governor of any port, citadel, or garrison upon the military establishment, being an officer in the army is eligible. 22 Journ. 201.

Gibraltar. No person having any office, civil or military, in Gibraltar, except officers having commissions in regiments there, is capable of being elected. 15 Geo. 2, c. 22, s. 1.

Where a civil office connected with the War Department is held by an officer on full pay and liable to be ordered at any moment to rejoin his regiment, such officer is not disqualified. *Harwich case*, 1866.

Ireland. No person who has in his own name or in the name of any other person in trust for him any office or place of profit, from or by the nomination or appointment of the lord lieutenant or other chief governor or governors of Ireland, created after the passing of 33 Geo. 3, c. 41, is capable of being elected a member of the House of Commons. 41 Geo. 3, c. 52, s. 5.

A person who accepts an old office, and who is not disqualified by anything contained in 41 Geo. 3, c. 52, may be elected. *Id.* s. 9.

Not only were persons who held pensions from the Crown, for a term of years or during pleasure, excluded from the Irish House of Commons, but also any person whose wife held such pension. 33 Geo. 3, c. 41, s. 1.

It is enacted that persons disqualified to sit in the Irish House of Commons are also disqualified to sit in the House of Commons of the United Kingdom for any place in Ireland. 41 Geo. 3, c. 52, s. 2. And also for any place in Great Britain. s. 3.

Persons prohibited from sitting for places in Great Britain are also disqualified from sitting for places in Ireland. *Ibid.*

Police Magistrates and Officers. The Metropolitan police magistrates, commissioners, and receiver of police are ineligible. 10 Geo. 4, c. 44, s. 18; 3 & 4 Will. 4, c. 19, s. 19; 19 & 20 Vict. c. 2, s. 9.

The commissioner of the city of London police is ineligible. 2 & 3 Vict. c. xciv., s. 7 (Local Act).

The divisional justices, the commissioners and other officers of the Dublin metropolitan police are ineligible. 48 Geo. 3, c. 140, s. 14; 6 & 7 Will. 4, c. 29, s. 19.

The inspector-general and other officers of the Royal Irish Constabulary are ineligible. 6 & 7 Will. 4, c. 13, s. 18.

Contractors. Any person who, directly or indirectly, by himself or any other person in trust for him or on his account, undertakes, executes, holds or enjoys in the whole or in part any contract, agreement or commission made or entered into with, under, or from the Commissioners of Her Majesty's Treasury or the Navy, or Victualling Office, &c., or with any other person or persons whatsoever for or on account of the

public service; or knowingly and willingly furnishes or provides, in pursuance of any such agreement, contract or commission which he or they shall have entered into as aforesaid, any money to be remitted abroad, or any wares or merchandize to be used or employed in the service of the public, shall be incapable of being elected or of sitting or voting as a member of the House of Commons during the time that he executes, holds or enjoys any such contract, agreement, or commission, or any part or share thereof, or any benefit or emolument arising therefrom. 22 Geo. 3, c. 45, s. 1; 41 Geo. 3, c. 52, s. 4 (Ireland). Nothing contained in the above provisions is to be construed to extend to any contract, agreement, or commission made, entered into, or accepted by any incorporated trading company in its corporate capacity, nor to any company now existing or established, and consisting of *more than ten* persons, where such contract, agreement, or commission is made for the general benefit of such incorporation or company. 22 Geo. 3, c. 45, s. 3.

In *Ireland* the exception is limited to any incorporated trading company *now existing or established*, and consisting of more than ten persons. 41 Geo. 3, c. 52, s. 4.

Where, before the election, the firm, in which the Member was a partner, had executed a contract entered into with the Secretary of State for India, but had not received payment till after the election, the election was held to be good. *Royse v. Birley* (*Manchester case*), L. R. 4 C. P. 296.

In the same case, goods of the value of 7*l.* 10*s.* had been supplied to an institution supported by money voted by Parliament. The goods were ordered by an official of the institution, and the firm had no knowledge that they were supplying goods for the public service. It was held that this transaction did not avoid the election. *Id.*

The contract for a public loan with the Government

does not disqualify for election. *Rothschild's case*, 110 Journ. 325.

In the *Dartmouth case*, Bar. and Arn. 455, a candidate was a government contractor, but had assigned his ships (the subjects of the contract) to his nephews by a bill of sale, executed before the election, but not registered till after. He was held not to be disqualified.

In the *Maidstone case*, Rogers, 744, where a contractor who had a contract with the Admiralty which contained a clause that if it should be assigned, the assignor should still be liable for its fulfilment; the contractor assigned the contract before the election at which he was returned, and it was held that the effect of the above clause was to make him a surety for the assignee and not a contractor. He was therefore not disqualified.

Contracts by descent, &c. Where the completion of any contract devolves upon any person by descent or limitation, or by marriage, or as a devisee, legatee, executor, or administrator, the provisions of 22 Geo. 3, c. 45, are not to apply until twelve months after he has been in possession of such contract. 22 Geo. 3, c. 45, s. 6.

Ineligible on Account of Offences. Any person who has been convicted of treason or felony after the 4th July, 1870, for which he shall be sentenced to death or penal servitude, or to any term of imprisonment with hard labour, or exceeding twelve months, such person shall become and (until he shall have suffered the punishment to which he had been sentenced, or such other punishment as by competent authority may be substituted for the same, or shall receive a free pardon from Her Majesty) shall continue henceforth incapable of being elected or sitting or voting as a

member of either House of Parliament. 33 & 34 Vict. c. 23, s. 2.

Before the passing of the above-mentioned Act, traitors and felons were disqualified by the common law. 4 Inst. 47. *Tipperary case*, 3 O'M. & H. 46.

In the *Tipperary* case the candidate had been sentenced to transportation for treason-felony, but had escaped before the expiration of his term. He was held incapable of sitting.

A person who has been indicted for treason or felony is not ineligible before conviction. *New Ross*, 2 P. R. & D. 189. Nor where a writ of error is pending. *Smith O'Brien's case*, 104 Journ. 319.

An outlaw on a criminal process is ineligible. Outlawry in civil proceedings, when it did exist, did not disqualify; it has, however, been abolished. 42 & 43 Vict. c. 59, s. 3.

Corrupt Practices. If a corrupt practice other than treating and undue influence has been proved to an election court to have been committed in reference to an election *by or with the knowledge and consent* of a candidate, or if treating or undue influence has been proved to have been committed *by* a candidate, he is for ever incapable of representing that constituency, and also incapable of representing any other constituency for seven years from the date of the report of the election court. 46 & 47 Vict. c. 51, s. 4, and s. 6 (4).

Any person convicted of a corrupt practice at a parliamentary or municipal election is incapable of being elected for seven years next after his conviction. 46 & 47 Vict. c. 51, s. 6 (4); 47 & 48 Vict. c. 70, s. 2 (2).

A candidate who has been found guilty *by his agents* of any corrupt practice, cannot represent the constituency in reference to which the corrupt practice was committed, for seven years after the date of the report of the election court. *Id.* s. 5.

Corrupt practice at municipal election. A person who commits any corrupt practice in reference to a municipal election is guilty of the like offence, and on conviction, liable to the same punishment, and subject to the like incapacities as if the corrupt practice had been committed in reference to a parliamentary election. 47 & 48 Vict. c. 70, s. 2 (2).

Illegal practice. If an illegal practice is proved to have been committed *by, or with the knowledge and consent* of any candidate at an election, he is incapable of being elected for the constituency in reference to which the illegal practice was committed for seven years next after the date of the report. If he has been guilty by his agents, the incapacity continues only during the parliament for which the election was held. 46 & 47 Vict. c. 51, s. 11.

Bankruptcy. A person adjudged a bankrupt is disqualified for being elected to or sitting and voting in the House of Commons, or any committee thereof. 46 & 47 Vict. c. 52, s. 32 (1 b.) This disqualification extends to the whole of the United Kingdom, but ceases when the adjudication has been annulled, or the bankrupt has obtained his discharge with a certificate that his bankruptcy was caused by misfortune without any misconduct on his part.

Miscellaneous Disqualifications. There are certain persons disqualified for sitting or voting in Parliament who do not fall into either of the preceding classes; these it is proposed to treat of separately.

Women. The exclusion of women from Parliament has arisen from custom. There is no statutory prohibition, nor is there any case in which their eligibility has been directly called in question. Lord DENMAN in

Gosling v. Veley, 7 Q. B. 406, says, "if a woman were to be nominated as a candidate, the votes given for her would be thrown away; the fact of her disqualification would be notorious, and every person would be presumed to know the law on that fact." See also the observations of Lord COLERIDGE in *Drinkwater v. Deakin*, L. R. 9 C. P. 626, to the same effect.

Infants. Persons under the age of twenty-one years are disqualified from being elected, and if elected, the return is void. Minors sitting and voting are liable to the same penalties as if they sat and voted without being chosen. 7 & 8 Will. 3, c. 25, s. 7 (*England*); 37 Geo. 3, c. 47, s. 20 (*Ireland*). See *Flintshire*, 1 Peck. 526.

A person attains his majority immediately after midnight on the day preceding the anniversary of his 21st birthday.

Lunatics. Lunatics, idiots, and other persons of unsound mind are ineligible. On the authority of an old case (*Grampound*, 1566), it is said that should a member, sane at the time of his election, afterwards become a lunatic, his seat may be avoided. It should, however, be remembered that at that time, if a member was supposed to be hopelessly ill, his seat would be declared vacant, and a new writ issued, a course that is never adopted now.

Aliens. An alien is not eligible for a seat in the House of Commons. It was enacted that no persons born out of the kingdoms of England, Scotland, or Ireland, or the dominions thereunto belonging (although he be naturalized or made a denizen, except such as are born of English parents), shall be capable to be of the Privy Council, or a member of either House of Parliament." 12 & 13 Will. 3, c. 2.

The provision relating to children was extended to the children of natural-born subjects by 7 Anne, c. 5,

and to the children born abroad whose *fathers* were natural-born subjects. 4 Geo. 2, c. 21.

Certificated aliens. Aliens may now be naturalized after a residence of five years in the United Kingdom, or after five years in the service of the Crown, by certificate of one of the principal Secretaries of State; and such person shall in the United Kingdom be entitled to all the political and other rights, powers, and privileges to which a natural-born subject is entitled. 33 & 34 Vict. c. 14, s. 7. It is not clear whether this clause renders naturalized persons eligible to Parliament.

A natural-born subject of her Majesty, who renounces his allegiance, and becomes a naturalized subject of another state is ineligible to Parliament. *Tipperary case*, 3 O'M. & H. 36.

Denizens. A denizen is an alien who has been made an English subject by letters patent *ex donatione regis*. He is ineligible to Parliament. 12 & 13 Will. 3, c. 2, s. 3.

Clergymen. It is enacted by 41 Geo. 3, c. 63, s. 1, that no person, having been ordained a priest or deacon, or being a minister of the Church of Scotland, shall be capable of being elected a member of the House of Commons.

A clergyman may, by resigning every preferment he may hold, and performing the formalities required by the Act, cease to be subject to the above disability. 33 & 34 Vict. c. 91, ss. 3, 4, and First Schedule.

By 10 Geo. 4, c. 7, no person in holy orders in the Church of Rome shall be capable of being elected a member of the House of Commons. Sect. 9.

Celebration of divine service is *prima facie* evidence of a person having been ordained *Ibid.*

Dissenting ministers are not disqualified from being elected to the House of Commons.

Peers. English peers are incapable of being elected members of the House of Commons, and if at the time a person succeeds, or is raised to a peerage, he is a member of the House of Commons, his seat becomes vacant.

Scotch peers, although they may not have a seat in the House of Lords, are ineligible.

Irish peers who have not a seat in the House of Lords may represent any constituency except an Irish one. 39 & 40 Geo. 3, c. 67.

A person who is already a member of the House of Commons cannot be a candidate. He may, however, vacate his seat by accepting an office of profit, and so become eligible. At a general election a person may be a candidate for a constituency although he has been already returned for another.

Votes thrown away. Votes given for a person disqualified to be a candidate are thrown away; those given to a person disqualified to be elected are not.

"Disqualified to be a candidate." This is the case where there is something wanting in the candidate himself which cannot be supplied, the existence or non-existence of which is not dependent upon argument or decision. *Drinkwater v. Deakin*, L. R. 9 C. P. 626.

In such case any voter who, after notice of the candidate's disqualification, votes for him, throws away his vote, and is considered to have entirely and deliberately abstained from voting, and to have acquiesced in the choice by the other electors of the other candidate.

"Disqualified to be elected." Where a candidate has been guilty of some offence, although the great majority of the electors voted for him, his election would be void. *Drinkwater v. Deakin*, *supra*.

Although a corrupt practice has been personally committed by the candidate at an election, and notice has been given, still, if there has not been before such notice a finding by an election judge, or on an indict-

ment that a corrupt practice has been personally committed by the candidate, that corrupt practice of which notice is given does not render him incapable of being a candidate, but only renders his election void. *Ibid.* *Galway* 1872, *contra*.

Persons incapable of being elected to or sitting in the House of Commons:—

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|---|-----|-----|-----|-----|--|
| Aliens | ... | ... | ... | ... | 33 & 34 Vict. c. 14. |
| Auditor of the Civil List | ... | ... | ... | ... | 56 Geo. 3, c. 46, s. 8. |
| Attendants at Scotch Episcopal chapels, where Royal Family not prayed for | ... | ... | ... | ... | 32 Geo. 3, c. 33, s. 13. |
| Assistant Barrister, Ireland | ... | ... | ... | ... | 40 & 41 Vict. c. 56, s. 3. |
| Assistant Comptroller and Auditor | ... | ... | ... | ... | 29 & 30 Vict. c. 39, s. 3. |
| Bankrupt | ... | ... | ... | ... | 46 & 47 Vict. c. 52, s. 32. |
| Bankruptcy—Registrar, &c., of Court, having jurisdiction in | ... | ... | ... | ... | 46 & 47 Vict. c. 52, s. 116. |
| Charity Commissioners (paid) Secretary and Inspectors | ... | ... | ... | ... | 16 & 17 Vict. c. 137, s. 5. |
| Clergymen (but see 33 & 34 Vict. c. 91) | ... | ... | ... | ... | 41 Geo. 3, c. 63. |
| Collector General of Rates, Dublin | ... | ... | ... | ... | 12 & 13 Vict. c. 91, s. 24. |
| Colonial Governors and Deputy-Governors | ... | ... | ... | ... | 6 Ann. c. 41, s. 25. |
| Commissioners of Public Works, Ireland | ... | ... | ... | ... | 1 & 2 Will. 4, c. 33, s. 11. |
| Commissioners of Woods, Forests, &c. | ... | ... | ... | ... | 14 & 15 Vict. c. 52, s. 10. |
| Commissioners of West Indian Encumbered Estates | ... | ... | ... | ... | 17 & 18 Vict. c. 117, s. 11. |
| Comptroller and Auditor-General... | ... | ... | ... | ... | 29 & 30 Vict. c. 39, s. 3. |
| Constabulary, Ireland—Inspector-General, magistrates, &c. | ... | ... | ... | ... | 6 & 7 Will. 4, c. 13, s. 18. |
| Contractors, Government | ... | ... | ... | ... | 22 Geo. 3, c. 45. |
| Corrupt Practices, persons guilty of | ... | ... | ... | ... | 46 & 47 Vict. c. 51, s. 4. 47 & 48 Vict. c. 70, s. 2. |
| County Court Judges | ... | ... | ... | ... | 25 & 26 Vict. c. 99, s. 4. |
| County Court Judges, Ireland | ... | ... | ... | ... | 14 & 15 Vict. c. 57, s. 2. |
| Customs, Commissioners and Officers of | ... | ... | ... | ... | 12 & 13 Will. 3, c. 10. 41 Geo. 3, c. 52, ss. 4, 8. |
| Deeds, Registrars and Deputy-Registrars (Middlesex) | ... | ... | ... | ... | 7 Ann. c. 20, s. 21. |

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| Deeds, Registrar, Ireland | 2 & 3 Will. 4, c. 87, s. 36. |
| Denizens | 12 & 13 Will. 3, c. 2, s. 3. |
| Dublin Metropolitan Police (see Police). | |
| East Indies, Governors and Deputy Governors of | 10 Geo. 4, c. 62, s. 1. |
| Excise (now Inland Revenue), Com- missioners and officers of | 41 Geo. 3, s. 52, ss. 4, 8. |
| Felons | 33 & 34 Vict. c. 23, s. 2. |
| Gibraltar, every civil and military officer in | 15 Geo. 2, c. 22, s. 1. |
| Holders of offices created since 25th October, 1705 | 6 Ann. c. 41, s. 25. |
| Idiots | At common law. |
| Illegal Practices, person guilty of... | 46 & 47 Vict. c. 51, s. 11. |
| Inclosure and Tithe Commissioners (see Land Commissioners). | |
| India, Members of Council | 21 & 22 Vict. c. 106, s. 12. |
| Infants (see Minors). | |
| Irish Land Commissioners, Assis- tant Commissioners &c. | 44 & 45 Vict. c. 49, s. 54. |
| Judges of High Court and Court of Appeal | 38 & 39 Vict. c. 77, s. 5. |
| Judges of High Court and Court of Appeal (Ireland)... .. | 40 & 41 Vict. c. 57, s. 13. |
| Judges of the Superior Courts in Scotland | 7 Geo. 2, c. 16, s. 4. |
| Land Commissioners, England (for- merly Copyhold, &c.) | 4 & 5 Vict. c. 35, s. 5. 14 & 15 Vict. c. 53. |
| Lunatics | At common law. |
| Minors | 7 & 8 Will. 3, c. 25, s. 7. 37 Geo. 3, c. 47. |
| Peers (except Irish peers). | |
| Pensioners—during pleasure | 6 Ann. c. 41, s. 25. |
| Pensioners—for term of years | 1 Geo. 1, stat. 2, c. 56. |
| Plantations, Governors and Deputy- Governors of | 6 Ann. c. 41, s. 25. |
| Police, Commissioner of, City of London | 2 & 3 Will. 4, c. xciv. s. 7. (Local and pers.) |
| Police (Metropolitan) Commissioner, } Receiver and Magistrates | 10 Geo. 4, c. 44, s. 18. 19 & 20 Vict. c. 2, s. 9. |
| Police (Dublin Metropolitan), Divi- sional Justices, Commissioners, } and other officers | 48 Geo. 3, c. 140, s. 14. 6 & 7 Will. 4, c. 29, s. 19. |

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| Recorder of a borough for that borough | 45 & 46 Vict. c. 50, s. 163(6). |
| Recorder of a borough for that borough (Ireland) | 3 & 4 Vict. c. 108, s. 166. |
| Returning Officer | At common law. |
| Revising Barrister for the county, &c., which he revises | 6 Vict. c. 18, s. 28. |
| Roman Catholic priests | 10 Geo. 4, c. 7, s. 9. |
| Scotch Ministers | 41 Geo. 3, c. 63. |
| Sheriff, depute, substitute, clerk, or deputy clerk for county... .. | 21 Geo. 2, c. 19, s. 11. |
| Town Clerk or Deputy Clerk in Scotch burgh for their burghs ... | 2 & 3 Will. 4, c. 65, s. 36. |
| Traitors | 33 & 34 Vict. c. 23, s. 2. |
| Women | At common law. |

Persons who may sit in the House of Commons:—

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| Admiral, Lord High | } See 30 & 31 Vict. c. 102, sched. H. |
| Admiralty, Commissioners of | |
| Admiralty Secretary | 15 Geo. 2, c. 22, s. 3. |
| Advocate, Lord | } See 30 & 31 Vict. c. 102, sched. H. |
| Attorney-General, England | |
| Attorney-General, Ireland | |
| Bank of England, Governor, Deputy-Governor, and Directors of | 15 Geo. 2, c. 13, s. 8. |
| Board of Trade, President of | } 7 Geo. 4, c. 32. |
| Board of Trade, Secretary of | |
| Chancellor of the Duchy of Lancaster... .. | See 30 & 31 Vict. c. 102, sched. H. |
| Chancellor of the Exchequer | 54 Geo. 3, c. 16. |
| Chief Secretary for Ireland | 13 & 14 Vict. c. 94, s. 3. |
| Church Estates, First Commissioner Education, Vice-President of the Council on | 19 & 20 Vict. c. 116. |
| Equerry, or Groom in Waiting | } See 30 & 31 Vict. c. 102, sched. H. |
| Household—Comptroller of the | |
| Household—Treasurer of the | See 30 & 31 Vict. c. 102, sched. H. |

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| Household—Vice-Chamberlain of the | of { See 30 & 31 Vict. c. 102, sched. H. |
| Judge-Advocate General | { See 30 & 31 Vict. c. 102, sched. H. |
| Local Government Board, President | 34 & 35 Vict. c. 70, s. 4. |
| Local Government Board, Secretary | 34 & 35 Vict. c. 70, s. 4. |
| Officers in the Army, &c. | See p. 86. |
| Ordnance, Surveyor-General of | 33 & 34 Vict. c. 17, ss. 2, 3. |
| Paymaster-General | 35 & 36 Vict. c. 44, s. 4. |
| Peers (Irish), except for Irish constituencies | 39 & 40 Geo. 3, c. 67. |
| Pensioners—Civil Service | 32 & 33 Vict. c. 15, s. 1. |
| Pensioners—Diplomatic | 32 & 33 Vict. c. 43, s. 17. |
| Postmaster-General | 29 & 30 Vict. c. 56. |
| President of the Privy Council | { See 30 & 31 Vict. c. 102, sched. H. |
| Secretary for Scotland | 48 & 49 Vict. c. 61, s. 3. |
| Secretaries of State, not more than four | 27 & 28 Vict. c. 34, s. 1. |
| Secretaries of State (Under), not more than four | 27 & 28 Vict. c. 34, s. 1. |
| Solicitor-General—England | { See 30 & 31 Vict. c. 102, sched. H. |
| Solicitor-General—Scotland | { See 30 & 31 Vict. c. 102, sched. H. |
| Solicitor-General—Ireland | { See 30 & 31 Vict. c. 102, sched. H. |
| Treasurer, the Lord High | { See 30 & 31 Vict. c. 102, sched. H. |
| Treasury—Lords Commissioners of | 5 W. & M. c. 7, s. 57. |
| Treasury—Secretaries | 15 Geo. 2, c. 22, s. 3. |
| War Office—Financial Secretary | 33 & 34 Vict. c. 17, ss. 2, 3. |
| Works, First Commissioner of | 14 & 15 Vict. c. 24, s. 20. |

CHAPTER II.

PERSONS EMPLOYED ON BEHALF OF A CANDIDATE FOR PAYMENT.

I. THE ELECTION AGENT.

Appointment. The Corrupt and Illegal Practices Prevention Act, 1883, enacts that on or before the day of nomination a person must be named by or on behalf of each candidate as his election agent. Section 24 (1).

A candidate may, however, name himself election agent. *Ib.* s. 24 (2).

There is no special form of appointment, nor does the Act require that the person appointed should have any special qualification.

Notice to returning officer. On or before the day of nomination the name and address of the election agent of each candidate must be declared in writing by the candidate, or by some other person on his behalf, to the returning officer, who must forthwith give public notice of the same. *Ib.* s. 24 (3).

One election agent only. One election agent only can be appointed on behalf of each candidate (*Ib.* s. 24 (4)), but the same person may be agent for more candidates than one. *Ib.* sched. I., P. V. 4.

Revocation of Appointment, or Death of Agent. The appointment of an election agent, whether the agent appointed be the candidate himself or not, may be revoked, and in the event of such revocation or his

death, whether such event is before, during, or after the election, then forthwith another election agent *must* be appointed, and his name and address declared in writing to the returning officer. *Ib.* s. 24 (4).

Persons Disqualified to be Agents. *Persons guilty of corrupt practices.* If upon the trial of an election petition a candidate is proved to have *personally* engaged as a canvasser or agent for the management of the election any person, knowing that such person has within seven years previous to such engagement been found guilty of any corrupt practice—

1. By a competent legal tribunal, or
2. By the report of an election court, or
3. By the report of election commissioners (15 & 16 Vict. c. 57), then

the election of such candidate shall be void. 31 & 32 Vict. c. 125, s. 44.

As to *personally engaging* the agent, it is not necessary to show that the candidate went and spoke to the scheduled man, and said to him, "Act as my agent;" but the engagement must be brought home to the candidate's personal knowledge.

The person employed need not be paid, but he must be employed for managing the whole or part of the election. A person employed for certain specific purposes, as a landlord to canvass his own tenants, would not be such an agent for the management of the whole or part of the election. Nor would the chairman of a public meeting to promote the candidate's return, nor even his proposer be within the above section. But being chairman of a committee would be evidence tending to show such person was manager of part of the election, so as to bring him within the statute. *North Norfolk case*, 1 O'M. & H. 236; 21 L. T. (N.S.) 270. See also the *Galway Borough case*, 2 O'M. & H. 196.

Returning officers, &c. As to the prohibition of the returning officer and officers appointed by him under the Ballot Act acting as agents, see p. 30.

The sheriff substitute, sheriff clerk, and town clerk are also prohibited from directly or indirectly acting as agent for any candidate. 2 & 3 Will. 4, c. 65, s. 66.

Statutory Duties. If any sub-agents (see below) are appointed, they must be appointed by the election agent, and this apparently whether they are paid or not. The election agent, by himself or sub-agent, must also appoint every polling agent (see p. 103), clerk, and messenger employed for payment, and hire every committee room. 46 & 47 Vict. c. 51, ss. 25 (1), 27 (1).

Except in the cases hereafter mentioned, all expenses incurred on account of an election must be paid by the election agent either in person or by a sub-agent, except the tender of security to, or payments by, the returning officer, or any *small* expense legally incurred by a person which is not repaid to him. *Ib.* s. 28 (1).

The personal expenses of the candidate may be paid by himself to an amount not exceeding one hundred pounds; any further personal expenses must be paid by the election agent. *Ib.* s. 31 (1).

II. SUB-AGENT.

Appointment. The office of sub-agent, like that of election agent, has been created by the Corrupt and Illegal Practices Prevention Act, 1883. A sub-agent can only be employed at county elections, when one may be employed for each polling district. The appointment must be made by the election agent, who must declare in writing the name and address of every sub-agent to the returning officer, and the returning officer must forthwith give notice of the name and address of every sub-agent so declared. 46 & 47 Vict. c. 51, s. 25.

Duties. As regards matters in a polling district, the election agent may act by the sub-agent for that district, and anything done for the purposes of the Corrupt and Illegal Practices, &c., Act, by or to the sub-agent, shall be deemed to be done by or to the election agent. *Ibid.*

Any act or default of a sub-agent which, if he were the election agent, would be an illegal practice or other offence against the Act, is an illegal practice or offence committed by the sub-agent, and the sub-agent shall be punished accordingly; and the candidate shall suffer the like incapacity as if the act or default had been the act or default of the election agent. *Ibid.*

Revocation of Appointment or Death of Sub-Agent. The appointment of a sub-agent is not vacated by the election agent who appointed him ceasing to be election agent, but may be revoked by the election agent for the time being of the candidate. In the event of such revocation, or of the death of a sub-agent, another sub-agent *may* be appointed; and his name and address must be forthwith declared in writing to the returning officer, who must forthwith give public notice of the same. *Ibid.*

Persons Disqualified. Persons disqualified to be election agents are also disqualified to be sub-agents. See p. 100.

Office of Agents and Sub-Agents. An election agent for a *county* or *borough* must have within the county or borough, or within any county of a city or town adjoining thereto, and a sub-agent must have within his district, or within any county of a city or town adjoining thereto, an office to which all claims, notices, writs, summons, and documents may be sent; and the address of such office must be declared at the same time as the appointment of the agent to the

returning officer, and shall be stated in the public notice of the name of the agent. 46 & 47 Vict. c. 51, s. 26.

The Redistribution of Seats Act, 1885, provides that the law relating to parliamentary elections shall apply as if each division of a county were a separate county. 48 & 49 Vict. c. 23, s. 9 (3). It would therefore appear that the election agent must have his office in the division of a county for which he is election agent, or within a county of a city or town adjoining thereto.

III. POLLING AGENTS, CLERKS AND MESSENGERS.

Appointment. Every polling agent, clerk, and messenger employed for payment must be appointed by the election agent or sub-agent.

Only one polling agent can be employed for payment in each polling station. 46 & 47 Vict. sched. I., p. I (3). There appears to be no legal objection, however, to the appointment of any number of unpaid polling agents, and the appointments in such case may be made by the candidate himself. This remark applies also to unpaid clerks and messengers, but not to the election agent, nor, it is submitted, to sub-agents.

As to the notice of appointment of polling agent to be given to the returning officer, see *ante*, p. 34.

Duties of Polling Agent. The principal duty of polling agent (formerly called personation agent) is to attend at the polling station for the purpose of detecting personation, and to discharge this duty efficiently he should be well acquainted with the persons voting at his polling station. He may require, and if he does so, the presiding officer is bound to put the questions permitted by law to any person applying for a ballot paper; he may also request the presiding officer to administer

the oath to the applicant as to his identity. See 6 Vict. c. 18, s. 81.

If at the time a person applies for a ballot paper or after he has voted and *before he leaves the station* the polling agent declares to the presiding officer that he verily believes and undertakes to prove that the person voting is not the person in whose name he assumes to vote, the presiding officer must immediately after the person has voted order a constable or other peace officer to take such person so voting into custody. *Ib.* s. 86.

If the justices before whom the person accused of personation is brought are satisfied that the charge is unfounded, they may order the polling agent to pay, if the party accused consents to accept the same, any sum not exceeding 10*l.* nor less than 5*l.* as damages and costs. *Ib.* s. 89.

If the person accused agrees to accept the sum awarded, and such sum is paid or tendered, but not otherwise, the agent, candidate, and all other persons are released from all actions or other proceedings, civil or criminal, in respect of the charge and apprehension. *Ibid.*

The polling agent must make the declaration of secrecy. 35 & 36 Vict. c. 33, s. 4.

Misconduct of a polling agent in a station, though it may justify the presiding officer in removing him, will not render the election of the candidate on whose behalf he was appointed void. *Bolton case*, 2 O'M. & H. 138.

To reduce the number of disputed claims to a minimum, and to enable the election agent to keep the expenditure within the maximum allowed, the remuneration of every sub-agent, polling agent, clerk, and messenger should be fixed when they are appointed.

Clerks and Messengers. The number of clerks and messengers that may be employed will be found at p. 114.

Persons cannot be employed and paid as clerks or messengers and employed in capacities not mentioned in the Corrupt and Illegal Practices Prevention Act, 1883 (see section 17 (1),) as, for instance, in canvassing.

A person sent round simply to inquire how voters intend to vote is, properly speaking, a messenger so long as he does not use any influence either personal or by his powers of persuasion to induce a voter to vote or refrain from voting for a particular candidate, and there appears no objection to the employment of a paid messenger for such a duty. If, however, he does use influence, he ceases to be a mere messenger and becomes a canvasser, and payment to him for such service would appear to be illegal. See, as to distinction between a canvasser and messenger, the *Bodmin case*, 1 O'M. & H. 117; 20 L. T. (N.S.) 989.

Any of the persons mentioned above may be electors, but, if paid for their services, they must not vote, and the term "*payment*" includes any pecuniary or other reward; and the expressions "*pecuniary reward*" and "*money*" include any office, place, or employment, and any valuable security or other equivalent for money, and any valuable consideration, and expressions referring to money shall be construed accordingly. 46 & 47 Vict. c. 51, s. 64.

Agents for Counting the Votes. The Ballot Act, 1872, contemplates the appointment of agents to attend at the counting of the votes, but such persons are not mentioned in the Corrupt and Illegal Practices, &c., Act, 1883. It would appear, therefore, that though persons may be employed in such capacity they cannot be paid, not being employed in a capacity mentioned in the first or second parts of the first schedule to the latter Act, unless the duties of such agents are to be considered clerical.

CHAPTER III.

PAYMENTS.

Except as permitted by the Corrupt and Illegal Practices Prevention Act, 1883,

| | | | | | | |
|-------------|---|----------|--------------------|--------------------|------------------------|----------------|
| no payment, | } | is to be | { | candidate or agent | } | at any time |
| advance, or | | | | | | |
| deposit | } | by a | { | any other person | } | |
| | | | | | | |
| whether | } | { | before, during, or | { | an election in respect | of any expense |
| | | | | | | |

incurred on account of or in respect of the conduct or management of such election, otherwise than by or through the *election agent* of the candidate, whether acting in person or by a sub-agent. 46 & 47 Vict. c. 51, s. 28 (1).

Providing Money. All money provided by *any* person other than the candidate for any expenses incurred on account of the conduct or management of the election, whether as

| | | | | | |
|-------------|---|---------------------|---|------------------|-----------------|
| gift, loan, | } | must be paid to the | { | candidate or his | election agent. |
| advance, or | | | | | |
| deposit, | | | | | |

Any person who acts in contravention of the above provisions is guilty of an illegal practice. *Ib.* s. 28 (1).

Exceptions. A tender of security to the returning officer, which may be given by any person. 38 & 39 Vict. c. 84, s. 3 (4); 46 & 47 Vict. c. 51, s. 28 (1).

Payments made by the returning officer.

Small sums legally expended by a person out of his own money and not repaid to him. *Ibid.*

The candidate's personal expenses, not exceeding 100%. See below.

A disputed claim paid by order of a competent court may be paid by the candidate himself. See p. 109.

Sums paid by leave of the High Court may be paid by the candidate. See p. 109.

Authorized payments for stationery, postage, and telegrams. See below.

Vouchers. Every payment made by an election agent or sub-agent must, except when less than forty shillings, be vouched for by a bill stating the particulars and by a receipt. *Ib.* s. 29 (1).

Any excess of the candidate's personal expenses above one hundred pounds should be vouched in the same way. *Ib.* s. 31 (1).

Stationery, Telegrams, &c. The election agent may authorize in writing any person to pay any necessary expenses for stationery, postage, telegrams, and other petty expenses not exceeding the amount mentioned in such authority, and the person making the payments must, within the time limited for sending in claims, send to the election agent a statement of particulars, vouched for by a bill containing the receipt of the person. *Ib.* sub-secs. (3), (4).

Any excess beyond the amount mentioned in the authority must be paid by the election agent. *Ibid.*

Personal Expenses. A candidate may pay any personal expenses incurred by him on account of or in connexion with or incidental to the election to an amount not exceeding one hundred pounds. *Ib.* 31 (1).

The expression includes the candidate's reasonable travelling expenses, and his reasonable expenses of living at hotels or elsewhere for the purposes of and in relation to the election. *Ib.* s. 64.

The candidate must send to the election agent within 14 days after the day the candidates returned were declared elected a written statement of his personal expenses. *Ib.* s. 3 (2).

Election Agent's Fee. This fee is to be paid, as far as circumstances admit, in like manner as if he were any other creditor, and if a difference arise respecting the amount of the claim, it is to be considered a disputed claim. *Ib.* s. 32 (1).

Contracts which may be Enforced. The only contracts enforceable against a candidate are those entered into by himself or his election agent. The inability to enforce a contract against the candidate does not relieve him from the consequences of any corrupt or illegal practice having been committed by his agent. *Ib.* s. 27 (2).

Time within which Claims must be sent in. Every claim against a candidate or his election agent in respect of any expenses incurred on account of or in respect of the conduct and management of the election which is not sent in to the election agent within the time limited is barred and must not be paid. 46 & 47 Vict. c. 51, s. 29 (2).

Subject to such exception as may be allowed in pursuance of the Act, an election agent who pays a claim in contravention of the above enactment is guilty of an illegal practice. *Ibid.*

The time limited by the Act for sending in claims is *fourteen days* after the day on which the candidates returned are declared elected. *Ib.* sub-sec. 3.

Sundays, &c., are included in this computation.

The account of charges claimed by the returning officer must be transmitted to the election agent within 21 days after the day on which the return is made of the persons elected. 38 & 39 Vict. c. 84, s. 4 ; 46 & 47 c. 51, s. 32 (2). Sunday, Christmas Day, Good Friday, fasts, and thanksgiving days are not reckoned.

Time within which Payment must be made.

All expenses incurred by or on behalf of a candidate at an election must be paid within the time limited by the Act and not otherwise. *Ib. s. 29 (4).*

Subject to such exception as may be allowed by the Act, an election agent who makes a payment in contravention of the above provision is guilty of an illegal practice. *Ibid.*

The time limited for the payment of expenses is 28 days after the day on which the candidates returned are declared elected. *Ib. sub-sec. 5.*

Where an election court reports that the candidate has proved that any payment made by his election agent in contravention of the above provisions has been made without his sanction or connivance his election will not be declared void, nor will he be subject to any incapacity. *Ib. s. 29 (6).*

Disputed Claims. Disputed claims are those which have been sent in within the time limited, and which the election agent either

Disputes, or
Refuses to pay, or
Fails to pay.

The claimant may bring an action for a disputed claim in any competent court, and any sum paid by the candidate or agent in pursuance of the judgment of such court is deemed to be paid within the time limited.

The payment may be made by the candidate himself. *Ib. s. 29 (8).*

On cause shown to the satisfaction of the High Court, such court, on application either by the claimant or by the candidate or his election agent, may by order give leave for the payment of a disputed claim, or of any such expense as aforesaid, although sent in *after the time limited*, or although the same was sent to the *candidate* and not to the election agent. *Ib. 29 (9).*

Any sum specified in the order of leave may be paid by the candidate or his election agent, and is deemed to be paid within the time limited. *Ib.* 29 (10).

Where an action is brought, and the candidate or agent admits his liability but disputes the amount, such amount may, unless the court on the application of the plaintiff otherwise directs, be forthwith referred for taxation to the proper officer of the court, and the amount found due shall be the amount to be recovered in such action. *Ib.* s. 30.

As to the taxation of the returning officer's claim, see p. 69.

Return and Declaration. Within 35 days after the day on which the candidates were declared elected, the election agent of *every* candidate at the election must transmit to the returning officer a true return (*a*), called a return respecting election expenses, in the form set forth in the Second Schedule to the Corrupt and Illegal Practices, &c., Act, containing as respects that candidate—

- (*a*) A statement of payments made by the election agent, with all bills and receipts.
- (*b*) Personal expenses of candidate.
- (*c*) Sums paid to the returning officer, or if the amount is in dispute, the amount disputed.
- (*d*) A statement of all other disputed claims of which the election agent is aware.
- (*e*) Unpaid claims, in respect of which application has been or is about to be made to the High Court.
- (*f*) A statement of all monies received, with name of person from whom received. *Ib.* s. 33(1).

(*a*) All expenses incurred for the purpose of supporting a particular candidate's interest at a particular election should be included in this return.

For form of account, see p. 120.

The election agent must send with the return a declaration made before a justice of the peace in the form given at the end of this chapter (p. 119).

When the candidate is his own election agent, the return and declaration must be modified. *Ib.* s. 33 (3). See form at end of the chapter (p. 119).

At the same time that the election agent transmits his return or within seven days afterwards, the candidate must transmit a declaration made before a justice of the peace in the form given in the first part of schedule 2. See end of chapter (p. 118).

If the return and declarations are not transmitted before the expiration of the time limited, the candidate is prohibited from sitting or voting in the House of Commons until such return and declarations have been furnished, or until the allowance of a lawful excuse for failure to transmit the same. The member who sits or votes in contravention of this provision forfeits 100*l.* per day to any person who sues for the same. *Ib.* s. 33 (5).

If without lawful excuse an election agent or candidate fails to make the required return and declarations, he is guilty of an illegal practice. *Ib.* s. 33 (6).

If the candidate or election agent knowingly makes a false declaration, he shall on conviction be liable to the punishment for perjury, and such offence is deemed a corrupt practice. *Ib.* s. 33 (7).

Where the candidate is out of the United Kingdom *when the return* is transmitted to the returning officer, he may make his declaration within fourteen days after his return to the United Kingdom, which must be forthwith transmitted to the returning officer. *Ib.* s. 33 (8).

But this delay is not to exonerate the election agent from complying with the provisions of the Act as to the return and declaration. *Ib.* s. 33 (8).

If a candidate has been nominated or declared a candidate, either without his consent or in his absence, and takes no part in the election, he may make a

declaration to that effect in the form contained in schedule 2, part 2, of the Corrupt and Illegal Practices Prevention Act (see end of the chapter); but the election agent must comply with the provisions of the Act. S. 63 (2).

Where, after the date at which the return respecting election expenses is transmitted, leave is given by the High Court for any claims to be paid, the candidate or his election agent must within seven days after payment transmit to the returning officer a return of the sums paid, with a copy of the order of court giving leave, and in default he shall be deemed to have failed to comply with the requirements of the Corrupt and Illegal Practices Act, 1883, without authorized excuse. *Ib.* s. 33 (9).

Where the return and declarations have not been transmitted, or contain an error or false statement, then—

- (a.) If the candidate applies to the High Court or an election court, and shows that the failure to transmit the return and declarations or any error therein has arisen by reason of his illness, or of the absence, death, illness, or misconduct of his election agent, or sub-agent, or of any clerk of such agent, or by reason of inadvertence, or of any reasonable cause of the like nature, and not by reason of any want of good faith on the part of the applicant; or
- (b.) If the *election agent* shows that the failure, &c., arose by reason of his illness, or the death or illness of any prior agent, or from any cause similar to those mentioned in the preceding paragraph,

the court may, after notice of the application has been given in the county or borough to which the election relates, and on production of evidence of the grounds

stated in the application, excuse the failure, or error, or false statement. *Ib.* s. 34 (1).

Where it appears to the court that an election agent or sub-agent has refused or failed to make the return, or supply such particulars as will enable the candidate and his election agent respectively to make the return and declarations respecting election expenses, the court, before allowing the excuse, shall order such person to attend before the court, and on his attendance shall, unless he shows cause to the contrary, order him to make the return and declaration, or deliver a statement of particulars, within such time, and to such person, and in such manner as the court may direct, or may order him to be examined with respect to such particulars, and may, in default of compliance with any such order, order him to pay a fine not exceeding 500*l.* *Ib.* s. 34 (2).

The court may make the allowance conditional upon making the return and declaration in a modified form, or within an extended time, and upon compliance with such other terms as to the court seem best calculated for carrying into effect the objects of the Corrupt and Illegal Practices Prevention Act. *Ib.* s. 34 (3).

An order allowing an authorized excuse shall relieve the applicant for the order from any liability or consequence under the Corrupt and Illegal Practices Prevention Act, 1883, in respect of the matter excused by the order. *Ibid.*

Where the candidate proves to the court that any act or omission of the election agent in relation to the return and declaration was without his sanction and connivance, and that he took all reasonable means for preventing such act or omission, the court shall relieve the candidate from the consequences of such act or omission on the part of the election agent. *Ibid.*

The date of the order, or, if conditions and terms are to be complied with, the date at which the appli-

cant fully complies with them, is the date of the allowance of the excuse. *Ibid.* sub-sect. 4.

The returning officer must publish a summary of the return. See p. 70.

The returning officer must also keep the return and vouchers for two years. See p. 70.

PERSONS LEGALLY EMPLOYED FOR PAYMENT.

One election agent and no more, whether paid or unpaid.

One sub-agent for each polling district in COUNTIES only.

One polling agent in each polling station.

In a BOROUGH one clerk and one messenger when the number of electors does not exceed 500, and an additional clerk and messenger for each additional 500 or fraction thereof.

In a COUNTY for the CENTRAL COMMITTEE ROOM one clerk and one messenger when the number of electors in the county does not exceed 5,000, and an additional clerk and messenger for each additional 5,000 or fraction thereof. Also in a—

COUNTY one clerk and one messenger for each POLLING DISTRICT when the number of electors in the polling district does not exceed 500, and an additional clerk and messenger for each additional 500 or fractional part thereof.

Where a county or borough is divided, each division is considered a separate constituency.

LAWFUL EXPENSES IN ADDITION TO THE ABOVE.

1. Returning officer's charges, not exceeding the amount authorized by 38 & 39 Vict. c. 84. (See pp. 71-76.)

2. Personal expenses of the candidate.

Items 1 and 2 are not included in the maximum amounts mentioned below.

3. The expenses of printing, the expenses of advertising, and the expenses of publishing, issuing, and distributing addresses and notices.

4. The expenses of stationery, messages, postage, and telegrams.

5. The expenses of holding public meetings.

6. In a BOROUGH the expense of one committee room for each *complete* 500 electors or *fraction* thereof.

7. In a COUNTY the expenses of a central committee room and one committee room for each polling district, and where the number of electors in a polling district exceeds 500 an additional committee room for each *complete* 500 electors.

MISCELLANEOUS MATTERS.

Expenses for miscellaneous matters not mentioned above must not exceed 200*l.*, and may not be expended in any matter constituting an offence under the Act, or in respect of a payment expressly prohibited by the Act. If there are two joint candidates, this amount is to be reduced for each by one fourth.

MAXIMUM SCALE.

The expenses mentioned above, *other than* the PERSONAL EXPENSES of the candidate, and the RETURNING OFFICER'S CHARGES, must not exceed the amounts set forth in the subjoined table.

MAXIMUM SCALE of Candidate's Expenses at an Election (exclusive of Personal Expenses and Returning Officer's Charges).

| No. of Electors. | | | England and Scotland. | | Ireland. | |
|------------------|-----|---------------|-----------------------|---------|-----------|--|
| | | | Counties. | Boro's. | Counties. | Boro's. |
| | | Not exceeding | £ | £ | £ | Same scale as for English and Scotch boroughs. |
| | | 2,000 | 650 | 350 | 500 | |
| 2,001 | ... | 2,999 | 710 | 380 | 540 | |
| 3,000 | ... | 3,999 | 770 | 410 | 580 | |
| 4,000 | ... | 4,999 | 830 | 440 | 620 | |
| 5,000 | ... | 5,999 | 890 | 470 | 660 | |
| 6,000 | ... | 6,999 | 950 | 500 | 700 | |
| 7,000 | ... | 7,999 | 1,010 | 530 | 740 | |
| 8,000 | ... | 8,999 | 1,070 | 560 | 780 | |
| 9,000 | ... | 9,999 | 1,130 | 590 | 820 | |
| 10,000 | ... | 10,999 | 1,190 | 620 | 860 | |
| 11,000 | ... | 11,999 | 1,250 | 650 | 900 | |
| 12,000 | ... | 12,999 | 1,310 | 680 | 940 | |
| 13,000 | ... | 13,999 | 1,370 | 710 | 980 | |
| 14,000 | ... | 14,999 | 1,430 | 740 | 1,020 | |
| 15,000 | ... | 15,999 | 1,490 | 770 | 1,060 | |
| 16,000 | ... | 16,999 | 1,550 | 800 | 1,100 | |
| 17,000 | ... | 17,999 | 1,610 | 830 | 1,140 | |
| 18,000 | ... | 18,999 | 1,670 | 860 | 1,180 | |
| 19,000 | ... | 19,999 | 1,730 | 890 | 1,220 | |
| 20,000 | ... | 20,999 | 1,790 | 920 | 1,260 | |
| 21,000 | ... | 21,299 | 1,850 | 950 | 1,300 | |
| 22,000 | ... | 22,999 | 1,910 | 980 | 1,340 | |
| 23,000 | ... | 23,999 | 1,970 | 1,010 | 1,380 | |
| 24,000 | ... | 24,999 | 2,030 | 1,040 | 1,420 | |

And for counties in Great Britain an additional 60% for every complete 1,000 electors.

For counties in Ireland an additional 40% for every complete 1,000 electors.

For boroughs in the United Kingdom an additional 30% for every complete 1,000 electors.

“Borough” in the foregoing table refers to every borough, including a district borough. The five boroughs which were treated as counties have ceased to exist.

The number of electors in a constituency is determined by the number on the register.

Where there are two joint candidates the amount for each is to be reduced by one-fourth.

Joint candidates. When candidates hire or use the same committee rooms for the purpose of the election, where they have the same election agent, or the same sub-agents, clerks, messengers, or polling agents, or publish a joint address, or joint circular, or notice at such election, they are deemed joint candidates.

- (a.) The employment and use of the same committee room, sub-agent, clerk, messenger, or polling agent, if accidental or casual, or of a trivial and unimportant character, shall not be deemed of itself to constitute persons joint candidates.
- (b.) Nothing is to prevent persons ceasing to be joint candidates.
- (c.) Where any excess of expenses above the maximum allowed for one of two joint candidates has arisen owing to his having ceased to be a joint candidate, or to his having become a joint candidate after having begun his election separately, and the ceasing or beginning was in good faith, and the excess is reasonable, and the total expense of the candidate does not exceed the maximum allowed for a separate candidate, the excess shall be deemed to have arisen from a reasonable cause, and the High Court or election court may grant relief.

FORM OF DECLARATIONS AS TO EXPENSES.

Form for Candidate.

I , having been a candidate at the election for the county [or borough] of on the day of , do hereby solemnly and sincerely declare that I have examined the return of election expenses [about to be] transmitted by my election agent [or if the candidate is his own election agent, "by me"] to the returning officer at the said election, a copy of which is now shown to me and marked , and to the best of my knowledge and belief that return is correct ;

And I further solemnly and sincerely declare that, except as appears from that return, I have not, and to the best of my knowledge and belief no person, nor any club, society, or association, has, on my behalf, made any payment, or given, promised, or offered any reward, office, employment, or valuable consideration, or incurred any liability on account of or in respect of the conduct or management of the said election ;

And I further solemnly and sincerely declare that I have paid to my election agent [if the candidate is also his own election agent, leave out "to my election agent"] the sum of pounds and no more for the purpose of the said election, and that, except as specified in the said return, no money, security, or equivalent for money has to my knowledge or belief been paid, advanced, given, or deposited by anyone to or in the hands of my election agent [or if the candidate is his own election agent, "myself"] or any other person for the purpose of defraying any expenses incurred on my behalf on account of or in respect of the conduct or management of the said election ;

And I further solemnly and sincerely declare that I will not, except so far as I may be permitted by law, at any future time make or be party to the making or giving of, any payment, reward, office, employment, or valuable consideration for the purpose of defraying any such expenses as last mentioned, or provide or be party to the providing of any money, security, or equivalent for money for the purpose of defraying any such expenses.

Signature of declarant

C. D.

Signed and declared by the above-named declarant on the day of , before me.

(Signed)

E. F.

Justice of the Peace for

Form for Election Agent.

I, _____, being election agent to _____, candidate at the election for the county [or borough] of _____, on the day of _____, do hereby solemnly and sincerely declare that I have examined the return of election expenses about to be transmitted by me to the returning officer at the said election, and now shown to me and marked, and to the best of my knowledge and belief that return is correct;

And I hereby further solemnly and sincerely declare that, except as appears from that return, I have not, and to the best of my knowledge and belief no other person, nor any club, society, or association has on behalf of the said candidate made any payment, or given, promised, or offered any reward, office, employment, or valuable consideration, or incurred any liability on account of or in respect of the conduct or management of the said election;

And I further solemnly and sincerely declare that I have received from the said candidate _____ pounds and no more [or nothing] for the purpose of the said election, and that, except as specified in the said return sent by me, no money, security, or equivalent for money has been paid, advanced, given, or deposited by any one to me or in my hands, or, to the best of my knowledge and belief, to or in the hands of any other person for the purpose of defraying any expenses incurred on behalf of the said candidate on account of, or in respect of the conduct or management of the said election.

Signature of declarant

A. B.

Signed and declared by the above-named declarant on the day of _____ before me.

(Signed) *E. F.*

Justice of the peace for

FORM OF RETURN OF ELECTION EXPENSES.

I, *A. B.*, being election agent to *C. D.*, candidate at the election for the county [or borough] of _____ on the _____ day of _____, make the following return respecting election expenses of the said candidate at the said election [or where the candidate has named himself as election agent, "I, *C. D.*, candidate at the election for the county [or borough] of _____ on the _____ day of _____, acting as my own election agent, make the following return respecting my election expenses at the said election"].

Receipts.

Received of [*the above-named candidate*] [*or where
the candidate is his own election agent, "Paid by
me"*] - - - - - - } £
Received of *J. K.* - - - - - - } £

[*Here set out the name and description of every person, club, society, or association, whether the candidate or not, from whom any money, securities, or equivalent of money was received in respect of expenses incurred on account of or in connexion with or incidental to the above election, and the amount received from each person, club, society, or association separately.*]

Expenditure.

Paid to *E. F.*, the returning officer for the said
county [*or borough*] for his charges at the said
election - - - - - } £

Personal expenses of the said *C. D.*, paid by himself
[*or if the candidate is his own election agent,
"Paid by me as candidate"*] - - - } £

Do. do. paid by me [*or
if the candidate is his own election agent, add
"acting as election agent"*] - - } £

Received by me for my services as election agent
at the said election [*or if the candidate is his
own election agent, leave out this item*] - - } £

Paid to *G. H.* as sub-agent of the polling district of £

[*The name and description of each sub-agent and the sum paid to him must be set out separately.*]

Paid to as polling agent - - - - £

Paid to as clerk for days services - £

Paid to as messenger for days services - £

[*The names and descriptions of every polliny agent, clerk, and messenger, and the sum paid to each, must be set out separately either in the account or in a separate list annexed to and referred to in the account, thus, "Paid to polling agent (or as the case may be) as per annexed list £ ."*]

Paid to the following persons in respect of goods supplied or work and labour done :

| | | | | | | |
|------------------------|---|---|---|---|---|---|
| To P. Q. (printing) | - | - | - | - | - | £ |
| To M. N. (advertising) | - | - | - | - | - | £ |
| To R. S. (stationery) | - | - | - | - | - | £ |

[The name and description of each person, and the nature of the goods supplied, or the work and labour done by each, must be set out separately either in the account or in a separate list annexed to and referred to in the account.]

Paid for postage - - - - - £

Paid for telegrams - - - - - £

Paid for the hire of rooms as follow :—

For holding public meetings - - - - - £

For committee rooms - - - - - £

[A room hired for a public meeting or for a committee room must be named or described so as to identify it; and the name and description of every person to whom any payment was made for each such room, together with the amount paid, must be set out separately either in the account or in a separate list annexed to and referred to in the account.]

Paid for miscellaneous matters, namely— - - £

[The name and description of each person to whom any sum is paid, and the reason for which it was paid to him, must be set out separately either in the account or in a separate list annexed to and referred to in the account.]

In addition to the above, I am aware, as election agent for C. D. [or if the candidate is his own election agent, leave out "as election agent for C. D."] of the following disputed and unpaid claims; namely,—

Disputed claims.

By T. U. for - - - - - £

[Here set out the name and description of each person whose claim is disputed, the amount of the claim, and the goods, work, or other matter on the ground of which the claim is based.]

Unpaid claims allowed by the High Court to be paid after the proper time or in respect of which application has been or is about to be made to the High Court.

By M. O. for - - - **£**

[Here state the name and description of each person to whom any such claim is due, and the amount of the claim, and the goods, work, and labour or other matter on account of which the claim is due.]

(Signed) *A. B.*

FORM OF DECLARATION AS TO EXPENSES.

Form for candidate where declared a candidate or nominated in his absence and taking no part in the election.

I, _____, having been nominated [or having been declared by others] in my absence [to be] a candidate at the election for the county or borough of _____, held on the _____ day of _____, do hereby solemnly and sincerely declare that I have taken no part whatever in the said election.

And I further solemnly and sincerely declare that [or with the exception of] I have not, and no person, club, society, or association at my expense has, made any payment or given, promised, or offered, any reward, office, employment, or valuable consideration, or incurred any liability on account of or in respect of the conduct or management of the said election.

And I further solemnly and sincerely declare that [or with the exception of] I have not paid any money or given any security or equivalent for money to the person acting as my election agent at the said election, or to any other person, club, society, or association on account of or in respect of the conduct or management of the said election, and that [or with the exception of] I am entirely ignorant of any money, security or equivalent for money having been paid, advanced, given, or deposited by any one for the purpose of defraying any expenses

incurred on account of or in respect of the conduct or management of the said election.

And I further solemnly and sincerely declare that I will not, except so far as I may be permitted by law, at any future time make or be party to the making or giving of any payment, reward, office, employment, or valuable consideration for the purpose of defraying any such expenses as last mentioned, or provide or be party to the providing of any money, security, or equivalent of money for the purpose of defraying any such expenses.

Signature of Declarant *C. D.*

Signed and declared by the above-named declarant on the
day of , before me,

(Signed) *E. F.*

Justice of the Peace for .

CHAPTER IV.

PERSONS DISQUALIFIED FROM VOTING.

Formerly every voter might be called on to establish his claim to vote at the time he tendered it. The inconvenience of this practice led to the adoption of a system of registration by which persons entitled to vote were placed on a register or list, and the fact of a person's name being on this list was made conclusive evidence of his right to vote, so far at least as the procedure at elections is concerned, and the absence of a person's name was conclusive evidence of his want of title. The Ballot Act, 1872, provides that a person shall not be entitled to vote unless his name is on the register, and that every person whose name is on the register shall be entitled to demand and receive a ballot paper, and to vote. Sect. 7.

There is, however, a proviso that nothing in that section (sect. 7) shall entitle any person to vote who is prohibited from voting by any statute, or by the common law of Parliament, or relieve such person from any penalties to which he may be liable for voting. *Ibid.*

A person whose name is on the register is entitled to vote, although from failure in some of the incidents of the franchise, such as receipt of alms, parochial relief, non-residence, insufficiency of qualification, he might, if objected to, have been struck off the register. Persons who, from some inherent quality in themselves, have not the status of electors, such as peers, women, persons holding certain offices, or convicted of certain crimes, cannot vote, the register is conclusive as regards

the former, but not as regards the latter. *Stowe v. Joliffe*, L. R. 9 C. P. 734.

It becomes important for agents to know who are prohibited from voting, although on the register, in order that steps may be taken, if it is considered desirable to have the votes given by such persons struck off on a scrutiny.

The Corrupt and Illegal Practices Prevention Act enacts that if any person votes or induces or procures any person to vote at any election, knowing that he or such person is prohibited, whether by that or any other Act of Parliament from voting at such election, he shall be guilty of an illegal practice. Sect. 9 (1).

Classification of Disqualification. The same classification may be adopted in the case of persons disqualified to elect, as in the case of persons disqualified to be elected, viz. :—

- (a). Disqualification on account of offices.
- (b). Disqualification on account of offences.
- (c). Miscellaneous disqualifications.

Voters Disqualified on account of Offices held by them. *Officers connected with the police.* (1). Every justice, receiver, or person belonging to the metropolitan police, during his continuance in office, and for six months afterwards, is disqualified to vote for a member for Middlesex, Surrey, Hertford, Essex, or Kent, or for any city or borough within the metropolitan district. 10 Geo. 4, c. 44, s. 18.

The horse patrol and Thames police are now incorporated with the metropolitan police, and subject to the same incapacities.

Every police magistrate, clerk, usher, door-keeper, or messenger of the eight metropolitan police courts is incapacitated from voting for a similar period. 2 & 3 Viet. c. 71, s. 6.

The commissioner and members of the city of London police are prohibited voting within the same area and for the same period as the metropolitan police. 2 & 3 Vict. c. xciv. (Local and Personal).

No head or other constable appointed or to be appointed for any borough under the Municipal Corporations Act, 1882, can vote for the borough for which he is appointed, or the county in which such borough is situate. 19 & 20 Vict. c. 69, s. 9; 45 & 46 Vict. c. 50, s. 242, sched. 9.

County police in England are prohibited from voting or interfering in elections for the county or for any adjoining county, or for a borough within them. 2 & 3 Vict. c. 93, s. 9.

County police in Scotland are in the same way prohibited from voting or interfering in elections. 20 & 21 Vict. c. 72, s. 17.

Special constables are not prohibited from voting.

Local constables are not prohibited. 3 & 4 Vict. c. 88, s. 5.

Soldiers may vote, but are not otherwise to interfere in elections. See 10 & 11 Vict. c. 22, s. 1.

Militiamen may also vote. 45 & 46 Vict. c. 49, s. 39.

The Dublin metropolitan magistrates and members of the police force are prohibited from voting for Dublin, Wicklow, Kildare, Meath, or the city of Dublin. 6 & 7 Will. 4, c. 29, s. 19.

The inspector-general, deputy inspector-general, county inspectors, magistrates, sub-inspectors (now district inspectors), clerks, and any other person belonging to the constabulary force in Ireland are prohibited from voting for any county in Ireland. 6 & 7 Will. 4, c. 13, s. 18.

The returning officer cannot vote in the ordinary way at an election; he may, however, where the votes of the candidates are equal, give a casting vote, if a registered elector. 35 & 36 Vict. c. 33, s. 2.

The under-sheriff, in so far as he acts as returning

officer, is included in the term returning officer (see sect. 8), and it is submitted is disqualified from voting. The deputy returning officer would appear to be disqualified on the same grounds.

There appears to be no legal objection to presiding officers, clerks, and persons appointed by the returning officer to assist him, voting.

A candidate may vote if a registered elector. *Harwich*, 1 Peck. 383.

In *Scotland* the sheriff substitute, sheriff clerk, and deputy sheriff clerk are prohibited from voting at an election for the county in which they hold office. In like manner the town clerk and deputy town clerk are prohibited from voting at an election for the city, burgh, town, or district in which they hold office. 2 & 3 Will. 4, c. 65, s. 36.

The assessors of Scotch counties are prohibited from voting for their counties (24 & 25 Vict. c. 83, s. 13), and assessors of Scotch burghs for their burghs (19 & 20 Vict. c. 58, s. 8).

In *Ireland*, where the votes were equal, the returning officer was required by the Irish Act, 35 Geo. 3, c. 29, s. 13, to give a casting vote, whether otherwise qualified or not. The Ballot Act repeals this section; and see *Athlone case*, 2 O'M. & H. 289.

Persons employed for Payment. No elector who within six months before or during any election shall have been retained, hired, or employed for all or any of the purposes of the election for reward by or on behalf of any candidate at such election as agent, canvasser, clerk, messenger, or in other like employment, shall be entitled to vote at such election, and if he votes he is guilty of a misdemeanor. 30 & 31 Vict. c. 102, s. 11 (*England*); 31 & 32 Vict. c. 48, s. 8 (*Scotland*); and 31 & 32 Vict. c. 49, s. 8 (*Ireland*).

The Corrupt and Illegal Practices Prevention Act, 1883, enacts that the persons permitted by that Act to

be employed for payment may or may not be electors, but may not vote. Sched. I.

If a person employed for payment at an election votes, a vote is to be struck off on a scrutiny from the total of the candidate employing him, without any inquiry as to how he voted. 35 & 36 Vict. c. 33, s. 25.

The carrying of a message incidental to printing by a printer was held not to disqualify. *Northallerton*, 1 O'M. & H. 167; 21 L. T. (N.S.) 113.

Money paid to a voter to recoup him his expenses for assistants employed by him in his business, when he was engaged in the election, was held to disqualify. A cabman employed in the ordinary way is not disqualified. *Southampton*, 1 O'M. & H. 222.

A solicitor who accepted a retainer, and acted upon it, was held disqualified, though no payment was proved. *New Windsor*, K. & O. 175; and see *Athlone* (1880), 3 O'M. & H. 57.

But in the *Cashel case*, 1 O'M. & H. 286, an agent who was not paid was not disqualified. An agent retained by a candidate who had retired was held incapable of voting, but this disqualification did not extend to his partner. *Mallow*, 2 O'M. & H. 20.

Offences a Ground of Disqualification. A person convicted on indictment of any corrupt practice at a parliamentary election is incapable of voting at any parliamentary election or election for any public office. 46 & 47 Vict. c. 51, s. 6 (3).

A person convicted of any corrupt practice at a municipal election is subject to the like incapacity as if the corrupt practice had been committed in reference to a parliamentary election. 47 & 48 Vict. c. 70, s. 2 (2.)

A person convicted of an illegal practice at a parliamentary election is subject to a like incapacity for five years. 46 & 47 Vict. c. 51, s. 101.

A person guilty of an illegal practice at a municipal election is subject to the same incapacity. 47 & 48 Vict. c. 70, s. 7.

Every person guilty of a corrupt or illegal practice or of illegal employment, payment, or hiring at an election is prohibited from voting at such election, and if any such person votes his vote shall be void. 46 & 47 Vict. c. 51, s. 36.

Any person guilty of a corrupt practice at a school board election is disqualified for six years from voting at a parliamentary election. 33 & 34 Vict. c. 75, s. 91.

Re-enfranchisement of certain Persons. The Acts disfranchising certain persons in the towns named below have been repealed by sect. 27 of the Redistribution of Seats Act, 1885, so that these persons may now, if not otherwise disqualified, be registered, and vote.

- Beverley, 33 & 44 Vict. c. 21, s. 3.
- Bridgwater, 33 & 34 Vict. c. 21, s. 2.
- Cashel, 33 & 34 Vict. c. 38, s. 3.
- Dublin, 33 & 34 Vict. c. 54, s. 1.
- Lancaster, 30 & 31 Vict. c. 102, s. 15.
- Norwich, 33 & 34 Vict. c. 25; 34 & 35 Vict. c. 77.
- Reigate, 30 & 31 Vict. c. 102, s. 16.
- Sligo, 33 & 34 Vict. c. 38, s. 2.
- Totnes, 30 & 31 Vict. c. 102, s. 13.
- Yarmouth (Great), 30 & 31 Vict. c. 102, s. 14.

Persons Disfranchised. Persons named in election commissioners' reports for the parliamentary boroughs mentioned below are incapable for seven years next after the presentation of the reports, respectively, of being registered as voters, or voting at any parliamentary election for the division of a county in which the said borough, or any part of it is situated, in respect of any qualification within the borough, or if such borough still continues to return a member or members

to Parliament, of being registered or voting for such borough. 48 & 49 Vict. c. 28, s. 28.

| | | | | | Cannot vote for |
|------------------|-----|-----|-----|-----|--------------------------------------|
| Boston ... | ... | ... | ... | ... | Boston. |
| Canterbury ... | ... | ... | ... | ... | Canterbury. |
| Chester... | ... | ... | ... | ... | Chester. |
| Gloucester ... | ... | ... | ... | ... | Gloucester. |
| Knarborough ... | ... | ... | ... | ... | Yorkshire, W. R. |
| Macclesfield ... | ... | ... | ... | ... | Macclesfield division of Chester. |
| Oxford ... | ... | ... | ... | ... | Oxford. |
| Sandwich ... | ... | ... | ... | ... | Isle of Thanet, division of Kent. |

Any person who has been tried and acquitted is not under any disability, although reported. *Ibid.*

Every person who, in consequence of conviction, or of the report of an election court or election commissioners under the Corrupt and Illegal Practices Prevention Act, or under the Corrupt Practices (Municipal Elections) Act, 1872, or under Part IV. of the Municipal Corporations Act, 1882, or under any other Act for the time being in force relating to corrupt practices at an election for any public office, has become incapable of voting at any election, whether a parliamentary election or an election to any public office, is prohibited from voting at any such election, and his vote shall be void. 46 & 47 Vict. c. 51, s. 37.

Every person who, after the commencement of the Corrupt and Illegal Practices Prevention Act (15th October, 1883), is reported by an election court or election commissioners to have been guilty of any corrupt or illegal practice at an election, shall, whether he obtained a certificate of indemnity or not, be subject to the same incapacity as he would be subject to if he had at the date of such election been convicted of the offence of which he is reported to have been guilty. S. 38 (5).

Where any witness who gave evidence against an incapacitated person is convicted of perjury in respect of such evidence, the High Court, if satisfied that the conviction or report, so far as respects such person, was based on perjury, may, on application, order that such incapacity shall thenceforth cease. 46 & 47 Vict. c. 51, s. 46.

Felons. Any person convicted of treason or felony, for which he shall be sentenced to death or penal servitude, or any term of imprisonment with hard labour, or exceeding twelve months, shall, until he has suffered the punishment to which he had been sentenced, or been pardoned, thenceforth be incapable of exercising any right of suffrage or other parliamentary or municipal franchise whatever within England, Wales, or Ireland. 33 & 34 Vict. c. 23, s. 2.

Felons sentenced to penal servitude, but released on a license, or ticket-of-leave as it is called, under 27 & 28 Vict. c. 47, s. 9, are not entitled to vote until they have endured their sentence.

Outlaws. Outlaws in criminal suits are incapable of voting. *Whitelocke.*

Bankruptcy is not a disqualification. *Camelford*, C. & D. 256; *Worcester*, K. & O. 241.

A person convicted of a misdemeanor is not disqualified from voting, but if in custody, the court will not grant a *habeas corpus* to enable him to record his vote. *Ex parte Jones*, 2 A. & E. 437.

MISCELLANEOUS DISQUALIFICATIONS.

Aliens. An alien, although capable of acquiring real and personal property, is not qualified for any municipal, parliamentary, or other franchise. 33 & 34 Vict. c. 14, s. 2.

Aliens naturalized by Act of Parliament may vote.

An alien who has received from the Secretary of State a certificate of naturalization, under clause 7 of the above-mentioned Act, is entitled to all the political rights, powers, and privileges to which a natural-born British subject is entitled.

A denizen is not incapacitated from voting. 2 Peck. 117.

Idiots. The vote of an idiot, *i.e.*, of a person *non compos mentis* from his birth by a perpetual infirmity, is not good. *Bedfordshire*, 2 Lud. 567.

Imbeciles. Whatever may have been the value of the decision in the *Oakhampton case*, 1 Frazer, 164, when the returning officer had to decide on the qualification of voters, it is submitted that a presiding officer would now be bound under similar circumstances to refuse a ballot paper.

Lunatics. There is no modern case on the incapacity of lunatics to vote, but if a person answers the questions, and takes the oath in a satisfactory manner, he is entitled to vote.

Drunken Persons. A person so drunk as not to be able to answer the questions would not be entitled to receive a ballot paper. If, however, he could answer the questions and take the oath, the presiding officer's duty being merely ministerial, he would be bound to give such person a paper, and it is not apparent how his vote could afterwards be avoided.

Infants. Persons under the age of twenty-one years are prohibited from voting. 7 & 8 Will. 3, c. 25, s. 8.

Blind Persons. These are entitled to vote, a special provision being made in the Ballot Act empowering the presiding officer to mark their ballot paper. 35 & 36 Vict. sched. I., r. 26.

Deaf and Dumb Persons. There appears to be no objection to a literate deaf and dumb person voting; the questions could be written out for him if the agents desired it, and the voter could give his answers also in writing. How an illiterate deaf and dumb person could vote, it is not easy to conceive.

Peers. By resolutions of the House of Commons, December, 1699, February, 1700, October, 1702, peers are declared not to have a right to vote at the election of any member to serve in Parliament. *Beauchamp (Earl) v. Madresfield Overseers*, L. R. 8 C. P. 245; 27 L. T. (N.S.) 606; 2 H. & C. 41; 42 L. J. C. P. 32.

Irish peers are also prohibited by a sessional order. But an Irish peer actually elected, and not having refused to serve for any constituency in Great Britain, has the right of voting.

The vote of an Irish peer, not being elected for a constituency in Great Britain, is void, though his name was on the register. *Droitwich*, K. & O. 65.

The mere warrant to issue a writ of summons to the House of Lords has been held not to disqualify. *Bedford*, C. & R. 95; P. & K. 143.

Women. Neither at common law nor by statute are women entitled to vote at parliamentary elections. *Chorlton v. Lings*, L. R. 4 C. P. 374; 1 H. & C. 1; 38 L. J. C. P. 25; 19 L. T. (N.S.) 534; *Chorlton*, app., *Kessler*, resp., L. R. 4 C. P. 397; 1 H. & C. 42.

CHAPTER V.

AGENCY.

Election agency differs widely from common law agency both as to the facts from which the law infers the relation, and the consequences flowing from it when established. MARTIN, B., in the *Westminster case* (1869), 20 L. T. (N.S.) 245, states that he and the other judges had, in consultation, unanimously arrived at the conclusion that the relation between a candidate and his agent was the relation of master and servant, and not the relation of principal and agent.

In a recent case, LUSH, J., lays it down that the relation between a candidate and the person whom he constitutes his agent is much more intimate than that which subsists between an ordinary principal and agent. The closest analogy is that of a sheriff and his under-sheriff and bailiffs. For as regards the seat, the candidate is responsible for all the misdeeds of his agent, committed within the scope of his authority, although they were done against his express directions and in wilful defiance of them [*Harwich case* (1880)]: 3 O'M. & H. 69.

The reason given for this difference in the law as regards election agency and ordinary agency, is that where any corruption is intended the candidate is most carefully kept in intentional ignorance of it [*Gloucester* (1873)]: P. P. 374-74, p. 75.

How Agents are Constituted. The decisions are uniform as to the results flowing from agency. LUSH,

J., in the *Harwich case* (1880), P. P. 227-80, p. 4, above referred to, says that as regards the consequences to the candidate of the acts, there is never any difficulty or doubt. The difficulty always is, when there is no express appointment, to determine whether the wrongdoer did or did not stand in the relation of agent to the candidate in respect of the particular matter of complaint.

The same learned judge observes in the same case, "An agent is a person employed by another to act for him and on his behalf, either generally or in some particular transaction. The authority may be actual, or it may be implied from the circumstances. It is not necessary in order to prove agency to show that the person was actually appointed by the candidate. If a person not appointed were to assume to act in any kind of service as agent, and the candidate accepted his services as such, he would thereby ratify the agency; so that a man may become agent of another in either of two ways, by *actual employment*, or *by recognition and acceptance*."

Extent to which agent can bind his principal. But though an agent binds his principal by his acts done even against the express prohibition of the latter, such acts must be within the scope of his employment. All persons employed by a candidate are not agents to the same extent. A person appointed or accepted as agent for canvassing generally, if he bribed any voter, the candidate would lose his seat. If a person were appointed to canvass a particular class of voters, or a specific person or specific persons, and he bribed a voter not belonging to the class or other than the specific persons, the candidate would not be responsible, because this was not within the scope of his authority [*Harwich* (1880)]: 3 O'M. & H. 69.

Unauthorized persons. If a person whom the candidate or his agent had not authorized at all to canvass,

were to take upon himself to bribe a voter, the candidate would not be responsible. *Ibid.*

A candidate is not responsible for the acts of a person who canvasses for him, and makes speeches in his favour, if, instead of adopting him as agent, he has endeavoured to dissociate himself from him [*London-derry* (1869)]: 1 O'M. & H. 278.

Evidence of facts which constitute agency. Where there is no express appointment, the agency must be inferred from facts. As KEOGH, J., observes in the *Sligo case* (1869), 1 O'M. & H. 301, "Agency is a result of law, to be drawn from the facts of the case, and from the acts of individuals."

But the facts and acts from which agency will be inferred must be distinctly and clearly proved. "I, for one, sitting as a judge trying these cases, shall always require distinct and clear evidence to lead my mind to the conclusion that a man is an agent within the meaning of the law" [DOWSE, B., in the *Carrickfergus case* (1880)]: P. P. 337-80, p. 21.

Where the judge is satisfied that candidates intended honestly to comply with the law, and meant to obey it, and that they themselves did no act contrary to the law, stronger evidence will be required. "I will not act upon anything as to which there possibly may be mistake or error" [MARTIN, B., in *Wigan case* (1869)]: 1 O'M. & H. 192.

The facts must be established affirmatively to the reasonable satisfaction of the judge. [Per GROVE, J., in *Taunton case* (1873)]: 2 O'M. & H. 75.

Different degrees of agency. "There is always a great difference in my view in the degrees of agency. As you go lower down you require more distinctly to show that the act was done by a person whom the candidate would be responsible for. As you come higher up, it is more as if the candidate had done it

himself" [BLAOKBURN, J., in the *Hereford case* (1869)]: 1 O'M. & H. 195.

If a small thing is done by the head agent, it would upset the election; and if small things to a considerable extent were done by a subordinate person, comparatively slight evidence of agency would probably have induced one to find that he was an agent [*Hastings* (1869)]: 21 L. T. (N.S.) 238.

Things numerously done. Wherever it appears that the things are numerously done, it would go very far to show that the agents did come within that principle upon which the law is founded, viz., that they were persons the benefit of whose foul play the member was to get, and therefore it would be right he should forfeit his seat in consequence [*Stalybridge case* (1869)]: 1 O'M. & H. 71.

Description of Agent. No precise definition can be given of what is the degree of relation that would constitute a man an agent. *Taunton* (1869). 1 O'M. & H. 185. "I think it must be made out that the party, before he is chargeable as an agent, must be a party found to be entrusted in some way or other by the candidate whose agent he is intended to be, with some material part of the business which is ordinarily performed by the candidate in his own person" [FITZGERALD, B., in the *Dungannon case* (1880)]: 3 O'M. & H. 101.

Canvassing a Proof of Agency. WILLES, J., in the *Windsor case* (1869), 1 O'M. & H. 3, says:—"I have already stated that, in my mind, authority to canvass (I purposely use the word 'authority,' and not 'employment,' because I mean it to apply to persons authorized to canvass, whether paid or not paid for their services), would constitute agency."

Authority for the general management of the election would involve authority to canvass. *Ibid.*

Again, in the *Guildford case* (1869), 19 L. T. (N.S.) 731, the same learned judge lays down that "as a rule, agency to bind the member would be agency to canvass or procure votes on his behalf." See also the *Blackburn case* (1869), 20 L. T. (N.S.) 829.

BLACKBURN, J., dissents from making canvassing a hard and fast rule to test agency. "I think that the effect of that would be to say, that wherever there were volunteers who were acting at all, and whose voluntary acting was not repudiated by the candidate or his agent; wherever, in fact, a person came forward at an election, and said, 'I will act for you and endeavour to assist you,' and the candidate or his agent said, 'I am very much obliged to you, indeed, sir;' wherever that was the case, any corrupt or improper act done by that volunteer, although unconnected with the member, would, if the proposition which has been enunciated is to be taken to the full extent, vacate the seat, and render the election void. Now, I cannot but think, that to lay down hard and fast rules of that sort would work a great deal of injury and injustice at times." [*Stalybridge case* (1869)]: 1 O'M. & H. 70; 20 L. T. (N.S.) 80.

In a later case the same learned judge says:—"Every bit of canvassing and acting for a candidate is *evidence* to show agency; but the result cannot depend on any precise rule that I could define" [*Hereford case* (1869)]: 21 L. T. (N.S.) 120.

CHANNELL, B., lays it down in the *Shrewsbury case* (1870), 2 O'M. & H. 36, that canvassing is only a matter from which the judge, discharging the functions of a jury, may infer agency. See also the *Harwich case* (1880), 3 O'M. & H. 69.

It will be thus seen that if canvassing is not conclusive evidence of agency, it goes a long way towards establishing it.

What is canvassing. Canvassing is where a person goes round seeking either by his personal influence or by his powers of persuasion to induce a voter to vote, or to refrain from voting for a particular candidate.

A mere *messenger* sent round to inquire how the voters are going to vote would not be considered an agent unless proved to be so by other evidence [*Bodmin* (1869): 1 O'M. & H. 120; *Windsor* (1869), 1 O'M. & H. 3; *Londonderry* (1869), 1 O'M. & H. 278.

If a person is asked to canvass specific voters, he would only affect the candidate for whom he canvasses in respect of those specific persons [*Bodmin* (1869)]: 1 O'M. & H. 120.

A person may be an agent although the candidate never intended him to be one. Where G. twice canvassed with the respondent, and was supplied with a list of voters in a certain district, though this was done after great pressure, and no canvass book was given to him as to the regular agents of the respondents, WILLES, J., held that the fact that the respondent had not forbidden him to canvass further, that he had been supplied with a list of voters by the agent, as well as his activity on the polling day, constituted evidence of agency [*Bodmin* (1869)]: 20 L. T. (N.S.) 989; P. P. 120-69, p. 29.

Although one agent refuses to employ a person, if another agent working side by side with the former does so, the person so employed will be considered an agent.

D. was not a committee man, though he attended continually at the committee rooms. He canvassed three times a week, using, however, a memorandum instead of a regular canvassing book. He had applied for, and received 30l., and was engaged about the petition. He was held to be an agent [*Stroud* (No. 3) (1874)]: P. P. 342-75, p. 36.

A candidate cannot, nor need he endeavour to prevent one voter trying to persuade another voter to come to his side [*Westbury* (1880)]: P. P. 337-80, p. 89.

The mere fact that a man has a canvass book is not sufficient to establish agency. It must be shown that he was employed on behalf of the respondent [*Bolton* (1874)]: 2 O'M. & H. 140.

Where an association was carrying on an independent canvass, the supply to them of duplicate canvass books by the agent of the respondent, was not considered sufficient to establish agency [*Westminster* (1869)]: 1 O'M. & H. 91. And a person who canvasses, although he only uses a memorandum book, and not a canvass book, may be an agent [*Stroud* (No. 3) (1874)]: P. P. 342-75, p. 36.

Where a candidate placed a large sum of money in the hands of two persons, directing them to apply it to honest and good purposes, but exercised no control over the manner in which the money was spent, it was held that he constituted them his agents to the fullest extent to which agency can be given; and that persons employed by them were agents of the candidate, though he might not know or be brought in personal contact with them [*Bewdley* (No. 1) (1869)]: 1 O'M. & H. 18.

Making Common Cause. GROVE, J., in the *Taunton case* (1874), 2 O'M. & H. 74, lays down that where a candidate has put himself in the hands of persons whose conduct is impugned, or made common cause with them for the purpose of promoting his election, he will be responsible for their conduct as agents.

Mere non-interference with parties who, feeling an interest in the success of the candidate, may act in support of his candidature, is not sufficient to saddle the candidate with any unlawful acts of theirs of which

the tribunal is satisfied that he or his authorized agent is ignorant. *Ibid.*

Agents' Agents or Sub-agents. LUSH, J., in the Plymouth case, says :—" It is clear law that if an agent of the candidate employs a sub-agent to negotiate with a voter for going to the poll, and the sub-agent commits an act of bribery in carrying out his commission, the candidate is as responsible as if the act had been done by the agent himself" [*Plymouth case* (1880)]: 3 O'M. & H. 108.

Agents' agents in election law have been frequently held to be agents. The maxim, *Delegatus non potest delegare*, does not apply in full force to these matters. " One person cannot allow another to delegate to a third to do all the dirty work, and himself sit in a room and do nothing, and yet be held irresponsible." Per GROVE, J., in the *Poole case* (1874): P. P. 374-74, p. 139.

Where the salaried clerk of the candidate's agent was employed about the election, he was held to be an agent [*Bewdley case* (1869)]: 1 O'M. & H. 19.

Agency by adoption. Where an association issued a circular, which was afterwards adopted by the candidates, addressed to " every manager, overlooker, and tradesman, and any other person having influence," it was held that this circular was a power of attorney to the extent to which it goes, and had the effect of constituting every over-looker, or other person addressed, who *bonâ fide* acted upon it and canvassed, an agent of the sitting member [*Blackburn case* (1869)]: 1 O'M. & H. 200; 20 L. T. (N.S.) 830.

Where the wife of an agent attempted to bribe the wife of a voter to procure her husband's vote, the judge held that the act of the wife was by the procurement of the husband, and that the respondent was liable [*Cashel case* (1869)]: 1 O'M. & H. 288.

Partners. The partner of the agent of a candidate is not, from the simple fact of the partnership, an agent of

the candidate even when the partners are father and son [*Mallow* (1870)]: 2 O'M. & H. 21.

Traitorous Agent. Where a candidate employs an agent, who acts treacherously or traitorously, a corrupt act done by him would not vacate the seat, unless it is proved that the corrupt act was done at the especial request of the member himself, or some untainted and authorized agent of the member [*Stafford Borough* (1869)]: 1 O'M. & H. 230.

In the above case a number of persons friendly to his opponent joined the respondent's committee. The chairman, a paid agent of the respondent's, was also suspected of being in collusion with his opponent. The judge declared that he would not upset the election for the unauthorised corrupt acts of such an agent.

It is different if an agent, still intending to act honestly as an agent, has been tricked into committing a corrupt act by the other party. *Ibid.*

Decisions. We have quoted freely from the decisions of the judges by whom the law of elections has been, we may say, formed. Formerly the election committees gave no reasons for their decisions, which appear to be one mass of contradictions and inconsistencies. Now, however, to use the words of Serjeants Cox and Grady, with regard to the decisions of the new tribunal, "With one or two exceptions, the judgments have been singularly consistent, and characterised by a judicial ability unsurpassed in any age or in any country." *Law and Practice of Registration and Elections*, 11th ed., p. ccxxxiv.

As, however, the result arrived at depends upon the peculiar facts of each case, we propose to give a few cases in which the facts have been held sufficient to establish agency, and others in which a contrary decision has been arrived at. The necessity for doing so will appear from the observations of KEOGH, J., in the *Sligo*

case (1869), P. P. 120-69, p. 144. He says: "All these cases must be looked at, and all the rulings of the judges by the light of the particular facts; and as I said before, it is quite heedless to quote an isolated passage from the judgment of any learned judge, without having before you and weighing deliberately the facts on which that observation has been made."

Canvassing.—S. was an active politician. He was in respondent's committee-room, and was seen coming out of it with a body of others who went canvassing. He himself canvassed with the respondent. He was active on the polling day in taking persons to the poll. Held, that in the absence of explanation, S. was an agent [*Tewkesbury case* (1880)]: 3 O'M. & H. 98.

W. went with a deputation to the respondent; he canvassed actively for him. He from time to time gave the names of the people he had canvassed, and he acted as an avowed and known partisan of the respondent. It was also admitted by the respondent's counsel that what W. ordered would be paid for by his client. Held, that W. was an agent [*Poole* (1874)]: P. P. 374-74, p. 37.

H. went round before the candidate, warning the people that he was coming. He also went round with the candidate, and made up the canvassing-book. He was engaged the whole of the polling day in getting up voters. Held, that H. was an agent [*Durham city* (1874)]: P. P. 374-74, p. 55.

D. was a gentleman who attended the respondent's committee; he was there as many as twenty times; he was also present at a local committee. On the polling day he was busy in bringing up voters who required particular attention; and as the judge found he was to use his influence and persuasion to bring them up, held that D. was an agent. [*Id.*]: 2 O'M. & H. 136.

Had D. been merely employed to take cabs to the voters, and had no authority to influence them at all, the result might be different [*Id.*]

H. was not a voter; he had twice called at the respondents' committee-rooms, and given a subordinate agent a list of persons connected with the railway and in his own employment, and was supplied with a list of those who were voters. He was also asked by an agent to canvass two specific voters. He was seen in company with the respondents' principal agent. H. gave a breakfast on the morning of the poll (a corrupt practice) to which "everybody and everybody's friends" were invited. Members of the respondents' committee were present, and also took voters to it. Carriages were provided to convey voters thence to the poll. H. was thanked by the respondents for the services he had rendered. Held, that all these facts taken together established agency, though taken singly no one would have been sufficient [*Hereford* (1869)]: 1 O'M. & H. 194.

H. was a canvasser; he canvassed with the son of the respondent and others. On the afternoon of the polling day he bought votes. Held, that he was an agent [*Norwich* (1869)]: 19 L. T. (N.S.) 617; P. P. 120-69, p. 124.

The respondent contributed 20*l.* to the funds of a political association through its secretary, who admitted he had spent the money in paying for drink and refreshments at meetings held for the purpose of promoting the respondent's candidature. Held, that the respondent had made the secretary his agent [*Gravesend* (1880)]: P. P. 337-80, p. 48.

G. came to an agent of the candidate's, and asked whether he might go and fetch some out-voters. The agent, to get rid of him, said at last, "All right, Jem," in an off-hand way. The agent swore he never meant to give him authority to go and fetch the voters, but what he said was merely to get rid of him. G. at-

tempted to induce some of the out-voters to accompany him by offers of a bribe. Held, that G. was not an agent [*Wallingford* (No. 2) (1880)]: P. P. 10-81, p. 23.

P. was a zealous and active supporter of the respondent, and on several occasions accompanied him when canvassing, he sometimes canvassed when the respondent was not present, and on the polling day took voters to the poll. It was proved in evidence that P. and others had accompanied the candidate for the purpose of pointing out to him the houses of the voters, but having done so, they retired, leaving him to solicit the vote himself. The court were satisfied that P. had no authority from the respondent, either expressly or by implication, to procure voters for him, and that he was not an agent for whom the respondent was responsible [*Harwich* (1880)]: P. P. 227-80, p. 8.

B. was employed by a candidate, Sir H. B., but was not employed by the other candidate, Sir R. P. After the election B. applied to Sir R. P. for payment of money illegally expended by him during the election. Sir R. P. paid the money in ignorance of the facts. This was held not to amount to a ratification of B.'s act by Sir R. P. [*Tamworth* (1869)]: 1 O'M. & H. 81.

Agency of Committees. It has been held that a committee in whose hands a candidate places the management of his election were collectively and individually his agents. *Ridler v. Moore*, Cliff. 371.

MANISTY, J., in the *Harwich* case (1880), P. P. 227-80, p. 8, defines a committee as "a number of persons, sometimes many, sometimes comparatively few, to whom the management of the election is in whole or in part committed or entrusted." But

MARTIN, B., in the *Westminster* case (1869): 1 O'M. & H. 92, refused to consider a member of a committee, consisting of between 600 and 700 persons, an

agent for whom the candidate was responsible." He says, "Now I have said, and other judges have said, that bribing by one of his committee would affect the candidate; but I spoke of what I then understood to be a 'committee.' I meant a number of persons, comparatively few—of course in a county that extends over a considerable district it would be larger—who were entrusted by the candidate with the work of carrying out his election, in whom he put faith and trust, and who, in fact, were his agents for carrying it out; but I have never supposed, nor do I believe, that either Mr. Justice BLACKBURN or Mr. Justice WILLES ever considered that where a number of people (600 or 700) choose to call themselves a 'committee,' thereupon they become 'agents' of the candidate for the purpose of making him responsible for an illegal act done by one of them."

But where there is a real *bond fide* committee of volunteers, not selected by the candidate or chosen by him at all, but really, in a business-like way, the voters of the district choosing men in whom they had confidence, and acting together, the candidate would not be responsible for the acts of such committee [*Stalybridge* (1869)]: 1 O'M. & H. 72.

Agency of Political Associations. "I desire shortly to allude to one matter, I mean the position of political associations and the liability of candidates. It was contended that there was no privity between the respondent and the W. association; that their active members were not his agents, and that he was not responsible for their illegal acts. There appear to be persons who think that a candidate may escape the responsibility attaching to the acts of an agent by the employment of the active members of a political association, instead of an individual or individual agents; if this could be done the Corrupt Practices Act would

become a dead letter. There may be, doubtless, a political association existing for the purpose of a political party, advocating the cause of a particular candidate, and largely contributing to his success, yet in no privity with the candidate or his agents—an independent agency and acting in its own behalf; to say that the candidate should be responsible for the corrupt acts of any member of that association, however active, would be unjust, against common sense, and opposed to law. There may, on the other hand, be a political association advocating the views of a candidate of which that candidate is not a member, to the funds of which he does not subscribe, and with which he personally is not ostensibly connected, but at the same time in intimate relationship with his agents, utilized by them for the purpose of carrying out his election, interchanging communications and information with his agents respecting the canvassing of voters, and the conduct of the election, and largely contributing to the result—to say that the candidate is not responsible for any corrupt acts done by an active member of such an association would be repealing the Corrupt Practices Act, and sanctioning a most effective system of corruption.” Per LOPES, J., in the *Bewdley case* (1880), 3 O’M. & H. 146.

T. N. was an active member of an association expressly formed for the purpose of promoting the respondent’s return. The association was in constant communication with the respondent’s authorized agent, who was a member, attended its meetings, and supplied its minute book at the candidate’s expense. The agent from time to time communicated with the secretary, who was also employed in his own house as a clerk at the respondent’s expense, as to its progress, and also reported progress to it. The agent and association used in common a marked copy of the register of voters showing the favourable, adverse, and doubtful votes. T. N. was one of the leading members of the association,

canvassed voters, and was actively engaged in taking them to the poll. Held, that T. N. was an agent for whom the respondent was responsible [*Bewdley* (1880)]: 3 O'M. & H. 145.

F. C. was an originator of a similar association. Respondent hired and paid for the room in which the association met, he had also a room in the same house which was frequently used by his paid canvasser, who communicated from time to time the progress of the election, and used the room for interchanging information about the election. F. C. was actively employed in bringing voters to the poll. Held, that he was an agent of the respondent [*Bewdley* (1880)]: P. P. 322-80, p. 142.

As to the risk a candidate runs through being brought in contact with large political associations, see the observations of LUSH, J., in the *Chester case* (1880): P. P. 301-80, p. 114.

Where there is an organization already in a place which a candidate employs and adopts for the purposes of his election, the mere fact that he allows no one to go round and canvass except himself and his private solicitors, will not necessarily prevent him from being responsible for the acts of that organisation [*Evesham* (No. 2) (1880)]: P. P. 10-81, p. 17.

Where, however, he does not make common cause with such organization, but on the contrary does all that he can to keep aloof from it, he is not responsible. *Id.*

There was an association in T. which did all those things which would commonly be done by a committee for promoting an election. They had a room whence they issued circulars, and circulated papers; people met there, and the members were actively acting on the canvass in favour of the respondent. They were acting openly, so that there was every probability that the respondent or his agent would know it.

Moreover, at the registration which took place shortly before the election, the agents of the respondent knew of the existence of the association and acted in concert with them. It was held that these facts raised a *prima facie* case of agency, and that it was for the respondent to show that he had no communication with it, that he repudiated it, and that it was acting officiously [*Taunton* (1869)]: 1 O'M. & H. 181; 21 L. T. (N.S.) 169.

In the *Harwich* case [(1880) P. P. 227-80, p. 8], where the candidate did not make common cause with the members of an association, who invited him to contest the borough, but carried out his own personal canvass, although he paid for the association's committee rooms, was accompanied on his canvass and introduced to the voters by some members of the association, who, however left him to solicit the votes himself: it was held that he was not responsible for the members of the association as agents. But where persons employ others to influence voters, to canvass voters, where they make common cause with others by taking them round to canvass with them, by availing themselves knowingly of their services, they must take the risk of their acts [*Evesham* (1880)]: P. P. 10-81, p. 10.

In Galway there were organizations or guilds whose meetings had been attended by the respondent and his agents. On the morning of the polling day one of these guilds formed in procession with a band and banners. One of the banners was carried a short distance by the respondent. The members of the guilds were guilty of acts of intimidation during the day. Held, that the respondent was responsible for their acts [*Galway Borough* (1874)]: P. P. 374-76, p. 68.

The respondent was the adopted candidate of a registration society, to whose funds he largely subscribed. P. was appointed by the society to carry out the work of registration. The respondent, though not a party to P.'s appointment, subsequently approved of it. When

the revision was completed, the funds and staff of the society, with P. as principal of the staff, were, with the respondent's assent, used for the purpose of promoting the election. Held, that P. was an agent of the respondent [*Londonderry City* (1869)]: 21 L. T. (N.S.) 709.

Subscribers to the Funds of an Association.

Subscribing to the funds of an association for the purpose of having the registration attended to does not make the subscribers partners, and does not confer on the person who manages the association any authority to bind them by any acts that may be done by him.

S. was manager of a Liberal association, to the funds of which the respondents subscribed. S. employed W. to look after the register or to be "objector-general," as he was called. W. was guilty of bribery by paying rates to enable a person to be put on the register. It was held that W. was not an agent of the respondents, and that they were not affected by his act [*Wigan* (1869)]: 1 O'M. & H. 189.

Roman Catholic Clergy. FITZGERALD, B., in the *Limerick City case* (1869), 1 O'M. & H. 262; 21 L. T. (N.S.) 567, referring to influence of the Roman Catholic clergy over their flocks, especially the poorer class, says, "If they (the clergy) make the cause of the candidate their own, and give him the benefit of having what may be equivalent to a committee-room conducted by themselves in every parish, they being the canvassers; and if it then turns out at the time of the election that the candidate represents his cause as identical with that of the clergy, and publicly gives out at the time of the election that the question between him and his adversaries is whether the clergy shall be raised up or pulled down, and is accompanied by them through the street canvassing; if that be so, though the particular clergyman of the parish be not the party

who accompanied the candidate in canvassing, I for my part, will doubt long before I say that the candidate is not, so far as sitting in Parliament is concerned, responsible for the acts of those parties in their several districts and parishes."

In the *Galway (County) case* (1872), 2 O'M. & H. 53, it was held that a letter from the respondent to a Roman Catholic priest proposing a clerical conference, to settle how far the clergy should go in asking tenants to vote against their landlords, and to organize a popular meeting, would make every bishop and priest who acted at those meetings his agent for the purposes of the election.

Termination of Agency. The termination of agency depends on the duties for which the agent has been appointed. The election agent must make his return of expenses and declaration before his duties are at an end, and so of others. The agency at an election which was solely from canvassing before the election, expires with the election unless there is something to show continuing authority [*Norfolk (Northern Division)* (1869)]: 1 O'M. & H. 243.

To affect the candidate, the corrupt act of a canvasser must be done anterior to the close of the election [*Salford* (1869)]: 1 O'M. & H. 137; 20 L. T. (N.S.) 120.

CHAPTER VI.

BRIBERY.

There are certain offences in connection with elections, which, if committed by the candidate or those whom the law considers his agents, will render the election void. These offences are, (1.) bribery, treating, undue influence, personation, and false declarations respecting election expenses; (2.) Illegal practices; and (3.) Illegal payment, employment, and hiring.

Bribery at Common Law. The definition given of the offence of bribery at common law is:—"Wherever a person is bound by law to act without any view to his private emolument, and another, by a corrupt contract engages such person, on condition of the payment or promise of money or other lucrative consideration, to act in a manner which *he* shall prescribe, *both* parties are by such contract guilty of bribery." 2 Doug. 400.

Bribery is an indictable offence at common law. The briber and the bribed are equally indictable, and the legislature has heaped up section upon section and Act upon Act for the purpose of endeavouring to stop it, but the common law is still as it was. *Beverley* (1869): 20 L. T. (N.S.) 796.

In that case the election judge found that a very great number of the electors were bribed; he therefore came to the conclusion that there was no necessity to have recourse to the statute at all, but that the election was void at common law.

In the *Lichfield case* (1869), 20 L. T. (N.S.) 14, WILLES, J., says, "Bribery at common law, equally as by Act of Parliament, avoided an election where it

took place. If there were general bribery, *no matter from what fund, no matter by what person, though the sitting member or his agents had nothing to do with it, that would defeat the election.*"

"General bribery, without its being traced to the candidate, will invalidate the election," per KEOGH, J. in the *Dublin case* (1869), P. P. 120-69, p. 75.

There is one case which is not within 17 & 18 Vict. c. 102, viz.: an offer to sell a vote, which is said to be a misdemeanor at common law. MORRIS, J., however, in the *Mallow case* (1870), P. P. 268-72, p. 107, refused to strike off such a vote on the ground that "the offering for sale by the voter of his vote does not appear to be bribery by the 3rd section of 17 & 18 Vict. c. 102, unless the offer is followed up by an agreement to that effect. It was urged, however, that it was a disqualification at common law; however, no case has been referred to me in which such a class of voters was ever struck off, and I decline to make a precedent here."

Where an election is set aside on the ground of general bribery or other corrupt practice, the person unseated is not disqualified to be again elected, if not personally or by his agent implicated in the corrupt practice.

Statutory Bribery. However true it may be that bribery has been always a crime at common law, no prosecutions for the offence are recorded, and it has been found necessary to supply the deficiency of the common law by statutory provisions extending from the reign of William the Third to the present time.

All Acts for the Prevention of Corrupt Practices at Elections prior to the Corrupt Practices Prevention Act, 1854, have been repealed by that Act, which together with the Acts amending the same contain the law on the subject.

Definitions of Bribery. Bribery as regards the briber is defined as follows :—

The following persons shall be deemed guilty of bribery, and shall be punishable accordingly :

1. Every person who shall, directly or indirectly, by himself, or by any other person on his behalf, give, lend, or agree to give or lend, or shall offer, promise, or promise to procure or to endeavour to procure, any money, or valuable consideration, to or for any voter, or to or for any person on behalf of any voter, or to or for any other person in order to induce any voter to vote, or refrain from voting, or shall corruptly do any such act as aforesaid, on account of such voter having voted or refrained from voting at any election :
2. Every person who shall, directly or indirectly, by himself, or by any other person on his behalf, give or procure, or agree to give or procure, or offer, promise, or promise to procure or to endeavour to procure, any office, place, or employment to or for any voter, or to or for any person on behalf of any voter, or to or for any other person, in order to induce such voter to vote, or refrain from voting, or shall corruptly do any such act as aforesaid, on account of any voter having voted or refrained from voting at any election :
3. Every person who shall, directly or indirectly, by himself, or by any other person on his behalf, make any such gift, loan, offer, promise, procurement, or agreement as aforesaid, to or for any person, in order to induce such person to procure, or endeavour to procure, the return of any person to serve in Parliament, or the vote of any voter at any election :
4. Every person who shall, upon or in consequence of any such gift, loan, offer, promise, procurement, or agreement, procure or engage, promise, or endeavour to procure the return of any person to serve in Parliament, or the vote of any voter at any election :
5. Every person who shall advance or pay, or cause to be paid, any money to, or to the use of any other person, with the intent that such money, or any part thereof, shall be expended in bribery at any election, or who shall knowingly pay, or cause to be paid, any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election :

* * * * *

Provided always, that the aforesaid enactment shall not extend to or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses *bonâ fide* incurred at or concerning any election. 17 & 18 Vict. c. 102, s. 2.

Where the bribery is not sufficiently general to avoid the election at common law, it is necessary to prove not only a violation of the law, but that that violation took place with the knowledge and consent of the member or an agent of the member [*Southampton* (1869)] P. P. 120-69, p. 289. A single bribe, however, if brought home to a member or his agent, will avoid the election. [*Westbury* (1869)]: 20 L. T. (N.S.) 22.

Offer of a Bribe. Speaking of an offer of a bribe, BLACKBURN, J., in the *Wallingford* case (1869): 19 L. T. (N.S.) 767, says: "There is no doubt that that, if brought home to the sitting member or his agent, would avoid the election. But then as a matter of fact, when one is coming to see whether or no it is proved, no one can avoid seeing at once that the evidence requires to be stronger and to be of a different character in such a case."

The offer to sell a vote is not bribery [*Mallow* case (1869)]: P. P. 268-72, p. 107.

The offer of a bribe to a person disqualified from voting is bribery. [*Guildford* case (1869)]: 1 O'M. & H. 14.

Promise of a Bribe. In the *Penryn* case (1869): 1 O'M. & H. 122, WILLES, J., says:—"If the respondent had promised, it would have been as much as if he had paid."

Where bribery consisted in a promise of money, evidence of actual payment was held to be admissible. *Magee v. Mark*, 11 Ir. R. C. L. 449.

In the *Coventry* case (1869): 1 O'M. & H. 105, the following telegram was held not to be a promise to pay

the voter's travelling expenses conditionally on his coming over and voting for the sender's side, and therefore not bribery:

"Eaton's Committee—Mr. H., come by first train to 'Stag,' Bishop-street."

Valuable Consideration. The words "valuable consideration" mean valuable consideration estimated in money. Per ALDERSON, B., in *Cooper v. Slade*, 6 E. & B. 447; 6 H. L. cases, 746.

Illustrations. The following facts have been held to constitute bribery:—

A promise to relieve a voter from a legal liability for the past and future use of a drill. *Bewdley case* (1880): P. P. 122-80, p. 142.

Taking a voter's shares in a building society off his hands, and thereby relieving him from any liability in respect of them. *Ibid.*

Hiring rooms in a great number of public-houses, ostensibly for committee-rooms, and paying a uniform rent for each without regard to the accommodation, and without asking the rent required [*Sandwich case* (1880)]: 3 O'M. & H. 158.

Finding and paying a substitute for a voter engaged in trawling to enable him to stay on shore and vote, he still receiving his share of the earnings of the smack [*Plymouth* (1880)]: 3 O'M. & H. 107.

A holiday given to the respondent's employés with pay, very many being voters, or the children or relative of voters. A holiday had been given at the two preceding elections, but no payment was made [*Gravesend* (1880)]: 3 O'M. & H. 84; but see observations of BRAMWELL, B., in *Stroud case* (No. 2), (1874): 2, *ib.* 181, and 48 & 49 Vict. c. 56; Appendix, p. 243.

Payment to recoup a workman for wages lost through coming to vote [*Staleybridge* (1869)]: 1 *ib.* 67; *Hastings* (1869), *ib.* 220.

Where a voter was told that he might have a day's wages BRAMWELL, B., says in the *Durham City case* (1874): P. P. 374-74, p. 53:—"I do not think it is a bribe unless it conveys to the man's mind that he would be certain to have a day's wages. Telling a man that there is a *possibility* that he may get something is not the *gift* of anything or the *promise* of anything."

An election was set aside because an agent of the respondent gave a voter a pair of boots [*Tewkesbury case* (1880)]: P. P. 337-80, p. 80.

In the *Dungannon case* (1880), *ib.* p. 38, D. represented that he was anxious to refrain from voting, and the respondent believing that he was likely to be bribed by the other side, requested his agent to devise means to keep him out of the way. The agent sent a sub-agent to take the man on a trip from Belfast to Stranraer, paying all expenses, and keeping him there until it was too late to vote. It was held that this was a valuable consideration to induce a voter to refrain from voting.

In the *Launceston case* (1874): 2 O'M. & H. 129, where, immediately before an election, general permission was given by a candidate to his tenants who were voters to kill rabbits, although the right of doing so had been reserved to himself in the leases, it was held to be a valuable consideration, and therefore bribery.

The *Boston election* (1874): 2 O'M. & H. 161, was set aside on account of one of the sitting members having bribed voters by gifts of coal. The orders for the coal were signed by the sitting member's political agent, and on the back were the words "with Mr. P.'s (the sitting member) compliments." Several persons employed to ascertain if the people would accept the coal were also employed to canvass them for their votes.

Release from prison. Payment of money to obtain a voter's release from prison [*Londonderry case* (1869)]: 1 O'M. & H. 275; but see *Ashburton*, W. & B. 1.

Payment of old claims. It sometimes happens that persons having claims in connection with a former election seek to get them paid as a condition of voting at a future election. Such payment, whether the claim is legally due or not, is bribery. 1st *Sligo*, 2 P. R. & D. 258; *Cambridge*, B. & Arn. 169; *Huddersfield*, 2 P. R. & D. 130; *Cashel* (1869), P. P. 120-69, p. 379.

Where, however, a candidate used his influence to get a debt, owing to an elector by a former candidate, paid, it was held not to be bribery [*Guildford* (1869)] : P. P. 120-69, p. 100.

The promise of a dinner on condition of a voter voting for a certain candidate, is bribery. Procuring food to be consumed *in futuro* is bribery; giving food to be consumed *on the spot* is treating [*Bodmin* (1869)] : 1 O'M. & H. 124; 20 L. T. (N.S.) 991.

Corrupt Payment of Rates. Any person who directly or indirectly pays any rate on behalf of any ratepayer for the purpose of enabling him to be registered as a voter, thereby to influence his vote at any future election; and any candidate or other person, either directly or indirectly paying any rate on behalf of any voter for the purpose of inducing him to vote or refrain from voting, is guilty of bribery. The person on whose behalf, and with whose privity the payment is made, is also guilty of bribery. 30 & 31 Vict. c. 102, s. 49 (*England*); 31 & 32 Vict. c. 48, s. 49 (*Scotland*).

MARTIN, B., in the *Cheltenham case* (1869), 1 O'M. & H. 63, says :—"that in order to make the payment of a rate for the purpose of enabling voters to be registered affect the election, you must prove that it was done *corruptly*; that it was done thereby to influence their votes, which, in my judgment, means to induce them to vote for the person on whose behalf the payment was made."

In the *Wigan case* (1869): 1 O'M. & H. 190, it was laid down that in order to make a third person responsible for the payment of a rate, you must prove that he gave authority to the person to do the act. The common law rules of agency, therefore, and not those of election law, apply to this case.

Payment of registration fees.—Scotch Universities. Any person who corruptly pays any fee for the purpose of enabling any person to be registered as a member of the general council, and thereby to influence his vote at any future election; and any candidate or other person paying such fee on behalf of any person for the purpose of inducing him to vote, or to refrain from voting, is guilty of bribery, and punishable accordingly. 44 & 45 Vict. c. 40, s. 2.

Any person on whose behalf and with whose privity any such payment is made is also guilty of bribery. *Ibid.*

Payment to enable person to take up his freedom. Such payments, if not made with the intention of influencing the vote, are not bribery. [*Beverley* (1869)]: 1 O'M. & H. 145.

Parliamentary and municipal elections. Where a municipal and parliamentary election are part of the same political contest, a corrupt practice at the former will avoid the latter, when it either was expressly intended to operate upon it, or when the necessary effect of what was done at the municipal election was to affect the parliamentary election [*Southampton* (1869), 1 O'M. & H. 226; *Beverley* (1869); *ibid* 147; *Blackburn* (1869), *ibid* 199.

Travelling expenses. All payments on account of the conveyance of voters to the poll, whether for the hiring of horses or carriages, or for railway fares or other-

wise, are forbidden; and if made by the candidate or his agent, would render the election void. 46 & 47 Vict. c. 51, ss. 7, 11. Apart, however, from this prohibition, a promise to pay the voter's travelling expenses conditionally on his voting for a particular candidate has been held to be bribery within 17 & 18 Vict. c. 102, s. 2—*Cooper v. Slade*, ante; [*Dublin* (1869)]: 1 O'M. & H. 273; but a promise not so conditioned has been held not to be so [*Bolton* (1874)]: 2 *ib.* 144. The subject need not be pursued further here, as, of course, no agent or candidate would now think of promising or paying such expenses. The payments on account of travelling, which would have constituted the offence of bribery before the passing of the Corrupt and Illegal Practices Prevention Act, 1883, would do so still.

Charitable gifts. Charitable gifts, where the motive is not to influence votes, are no offence against any law [*Plymouth case* (1880)]: 3 O'M. & H. 110. But where 300*l.* a year was habitually spent by a candidate in charitable donations, and at the Christmas preceding the election the amount was raised to 720*l.*, which was distributed without check by his election agent, the judge was of opinion that such expenditure was corrupt [*Stafford case* (1869)]: 1 O'M. & H. 230.

Largesses. The distribution of 340*l.* in the street in sixpences, shillings, florins, and half-crowns to persons not voters, was held not to be bribery [*Youghal case* (1869)]: 1 O'M. & H. 294.

Lavish expenditure. Lavish expenditure in a neighbourhood, with a view of gaining popularity and influencing an election, is not illegal. "In order to constitute anything which would be a corrupt practice in respect of expenditure of that sort, it must be made with

a view of influencing a particular vote" [*Hastings case* (1869)]: 1 O'M. & H. 218.

Time. Although bribery must be committed at the election, it has been held that it need not be at the moment when the polling is going on, but it means at some time "which is continuing to and operative upon the election. To take an extreme case: if Mr. S. himself had said to any voter, 'Here are 5*l.* for you if you will promise to vote for me when I am candidate;' if he had not come forward for ten years it still would have been within the Act." Per BRAMWELL, B., in *Stroud* (No. 2) (1874): 2 O'M. & H. 183.

A bribe to avoid an election must be operative at the time of the election [*Windsor case* (1874)]: 2 O'M. & H. 91.

If a person gave a bribe, which was accepted, but the parties afterwards changed their minds, and the bribe was returned, this would not avoid the election. *Ibid.*

A bribe given to a person who died before the election would not avoid it. *Ibid.*

KEOGH, J., in the *Sligo case* (1869): 1 O'M. & H. 302:—"Any act committed previous to an election, no matter at what distance of time, with a view to influence a voter, whether it is one, two, or three years before, is just as much bribery as if it was committed on the day of the election."

The bribery need not be committed with reference to any particular election.

Mr. T. was a candidate for Norwich in 1868, when he was defeated; in 1870 he was returned, but unseated in consequence of bribery by an agent at the former election [*Norwich case* (1870)]: P. P. 268-72, p. 130.

The Amount. Where the amount given in bribes is trifling, and the acts of bribery isolated, the election will not be avoided.

Where it was proved that a shilling had been given to one man, the same amount to another, and sixpence to a third, MARTIN, B., says :—" If I were to upset an election for single acts such as these, it seems to me the law would be brought into contempt and ridicule " [*Salford case* (1869)]: 1 O'M. & H. 142.

Expectation of voter. No amount of hope or expectation on the part of the voter that he will receive any money or other valuable consideration is sufficient to constitute bribery [*Coventry* (1869)]: 20 L. T. (N.S.) 418.

Corruptly. It will be observed that any of the acts mentioned in the first paragraph of sect. 2 of 17 & 18 Vict. c. 102, which, if done before an election to induce a voter to vote, &c., would be bribery, must, if done on account of any person having voted, &c., be done corruptly to constitute that offence.

As regards the meaning of the word corruptly, it does not mean " wickedly, immorally, or dishonestly, or anything of that sort, but with the object and intention of doing that which the legislature plainly meant to forbid." Per BLACKBURN, J., in *Bewdley case* (1869): 1 O'M. & H. 19.

MARTIN, B., in the *Bradford case* (No. 2) (1869): 1 O'M. & H. 37; 19 L. T. (N.S.) 726, says :—" If you give money to a man to vote before an election, that is *ipso facto* bribing; but if the money is given after a man has voted, you must show that it was done corruptly. What is the exact meaning of the word 'corruptly?' It is difficult to say; but I am satisfied that it is a thing done with an evil mind and intention, and unless there be an evil mind or an evil intention accompanying the act, it is not done corruptly. 'Corruptly' means an act done by a man knowing that he is doing what is wrong, and doing it with an evil object."

“I do not know a better definition of the word ‘corruptly’ than that which is given in the *Launceston case* (2 O’M. & H. 129), where the judge defined ‘corruptly’ to be ‘with the intention of producing an effect upon the election.’” Per DOWSE, B., in *Carrickfergus case* (1880): 3 *ib.* 91; see also *Cooper v. Slade*, *ante*; *Limerick City* (1869): 1 O’M. & H. 261.

Procuring Employment. The first paragraph of sect. 2 of 17 & 18 Vict. c. 102, makes the gift, &c., of money or money’s worth bribery: the second paragraph makes the giving of any office, place, or employment.

Employment at election. Employment for reward about the election was a long standing form of corruption, and the evil was sought to be remedied by prohibiting persons employed for payment at an election from voting. 7 & 8 Geo. 4, c. 37; 30 & 31 Vict. c. 102, s. 11. These Acts were, however, only partially successful, and a more efficacious remedy has been found in strictly limiting the number of persons who may be employed for payment on behalf of a candidate about an election. 46 & 47 Vict. c. 51, sched. I. Wherever employment is given, whether at an election or elsewhere, for the purpose of influencing a vote, it is bribery.

Colourable employment. Where the employment has been in name only, where money has been given for doing nothing, or in excess for the services fairly rendered, it would be considered bribery [*Penryn case* (1869)]: 1 O’M. & H. 130.

Payment not necessary. It is not necessary that there should be any emoluments attached to an office to constitute a promise to procure it bribery. Where an agent of the respondent offered to resign his seat in the town.

council in favour of a voter in order to induce him to vote for the respondent, the judge expressed his opinion that if such offer had been seriously made it would have been bribery [*Waterford case* (1870)]: 2 O'M & H. 25.

Employment not about the election. The same principles apply to this as to employment about an election. It must not be given to influence a vote, nor must it be merely colourable. WILLES, J., in the *Penryn case* (1869): P. P. 120-69, p. 134, says: "I cannot see myself the distinction between employing a man for the purpose of the election and getting a man employment at his ordinary work, and at proper wages, in another capacity."

A person who has employment to give may employ persons of his own way of thinking, but he must not give the employment as a reward for the vote which he hopes to obtain, and he must not make the vote a condition of giving employment. *Ibid.*

"To lay down the rule that whenever a person really having a job in hand, offers it to a man who is going to vote on the other side, although he says it was not intended to influence the man's vote, we are to draw the inference that it was, would be laying down the rule that during an election there must be exclusive dealing." BLACKBURN, J., in the *Hastings case* (1869): 21 L. T. (N.S.) 238.

Where the alleged bribery consists in an offer of employment, it ought to be made out beyond all doubt [*Cheltenham* (1869)]: 1 O'M. & H. 64.

Procuring Return. Paragraphs 3 and 4 of the 2nd section of 17 & 18 Vict. c. 102, strike at a very long standing mode of corruption—the purchase of influence. The subject was much discussed in the *Coventry case* (1869): 1 O'M. & H. 97, in which Mr. E., a candidate, entered into an arrangement with Mr. H.,

who had formerly unsuccessfully contested the borough, that they should stand together, Mr. E. paying the whole of the expenses of the election. This, it was contended, was a purchase of Mr. H.'s influence. It was held, however, that under the circumstances it was not, and that the fair payment of the expenses of a candidate, if he will stand, does not of itself constitute an illegality under the provisions of the Act. "A payment to be made under the third paragraph of the 2nd section must be a payment for the purchase of influence; it must be a payment to a person having influence in a place in order to purchase that influence; it must be a payment on account of his lending his influence or countenance in the election."

Bribery at test ballot. There were three Liberal candidates for a vacant seat, and from the state of parties in the constituency it was certain that if they all went to the poll a Conservative would be returned, but if only one Liberal candidate went to the poll he was certain to be returned. A test ballot was held to determine which of the three candidates should stand, and an agent of the respondent bribed several persons to vote for him at the test ballot. Nothing was said about voting at the election. This was held to be bribery. *Britt v. Robinson*, L. R. 5 C. P. 503.

Providing Money for Bribery. Paragraph 5 of sect. 2, 17 & 18 Vict. c. 102, makes it bribery to advance or pay money with the intent that it should be expended in bribery, or to knowingly pay money to any person in discharge or repayment of money expended in bribery at any election.

Proviso as to legal expenses. Provided always that the aforesaid enactment shall not extend or be construed to extend to any money paid or agreed to be paid for or on account of any legal expenses *bonâ fide*

incurred at or concerning the election. 17 & 18 Vict. c. 102, s. 2.

This proviso applies either to payments expressly or impliedly legalized by the Act, or to payments undoubtedly legal at the time of the passing of the Act [Rogers, 353].

"I am quite sure, and it ought to be thoroughly understood, that that proviso relates to the expenses of the candidate; that it does not relate to the expenses of any other person, and it does not relate to the expenses of voters." Per WILLES, J., in the *Coventry case* (1869): P. P. 120-69, p. 56.

The Person Bribed. The following persons shall be deemed guilty of bribery, and shall be punished accordingly :—

1. Every voter who shall, before or during any election, directly or indirectly, by himself or by any other person on his behalf, receive, agree, or contract for any money, gift, loan, or valuable consideration, office, place, or employment, for himself or for any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at any election. 17 & 18 Vict. c. 102, s. 3.

The offer to sell a vote does not appear to be now an offence either at common law or under the statute.

The offence of bribery *in the briber* is complete without the acceptance of the bribe on the part of the person bribed. To constitute the offence of bribery *in the person bribed* there must be a corrupt receiving. *Malcolm v. Parry*, L. R. 9 C. P. 610.

Bribery may be committed by a person who is not entitled to vote, but who claims to have a right to vote. See sect. 38; [*Guildford* (1869)]: 1 O'M. & H. 14.

"*Agreeing to vote.*" A person may be guilty of bribery, although he either does not vote at all, or votes

for the other side, if he accepts money, &c., for agreeing to vote [*Lichfield* (1869)]: 1 O'M. & H. 22; P. P. 120-69, p. 122.

2. Every person who shall, *after* any election, directly or indirectly, by himself or by any other person on his behalf, receive any money or valuable consideration on account of *any person*, having voted or refrained from voting, or having induced any other person to vote or refrain from voting at any election. 17 & 18 Vict. c. 102, s. 3.

“*Any person*” would include a voter himself receiving money, &c., after an election for having voted, although no promise had been made to him before the election.

It is no offence to give a person employment after an election out of gratitude for assistance at an election, provided there was no agreement to do so before the election.

Wagers. In the *Windsor case*, K. & O. 195, the committee decided that every wager was equivalent to a bribe, and the same decision was come to in the *Worcester case*, K. & O. 955, the committee holding that as the law held bets of a light nature to be void, they ought to do what they could in aid of the law by striking off the votes; but see the *Monmouth case*, K. & O. 416; also *Allen v. Hearn*, 1 T. R. 56; *Jones v. Randall*, Cowp. 39.

Penalties. We will here give the penalties imposed on corrupt practices generally, in order to prevent repetition.

Candidate personally guilty. Where an election court report that any corrupt practice other than treating or undue influence has been proved to have been com-

mitted by or *with the knowledge and consent* of any candidate, or that treating or undue influence has been committed *by any candidate*, that candidate shall not be capable of *ever* being elected for the county or borough in reference to which the offence has been committed, and if he has been elected, his election shall be void. Such candidate is further subject to the same incapacities as if at the date of the report he had been convicted on indictment of a corrupt practice. See p. 169. 46 & 47 Vict. c. 51, s. 4.

Candidate guilty by agents. Where the election court reports that a candidate has been guilty by his agents of any corrupt practice, he is incapable of being elected for the county or borough in reference to which the offence has been committed for seven years after the *date of the report*; and if he has been elected, his election shall be void [*Ib.* s. 5.]

Punishment of Person Convicted. *Corrupt practice other than personation.* A person who commits a corrupt practice other than personation, &c. (see next paragraph) shall be guilty of a misdemeanor, and on conviction on indictment shall be liable to be imprisoned, with or without hard labour, for a term not exceeding one year, or to be fined any sum not exceeding two hundred pounds [*Ib.* s. 6 (2)].

Personation. A person who commits the offence of personation, or of aiding, abetting, counselling, or procuring the commission of that offence, shall be guilty of felony, and any person convicted thereof shall be punished by imprisonment for a term not exceeding two years, together with hard labour [*Ib.* s. 6 (2)].

A person may, if he so chooses, be tried summarily by an election court, in which case, if convicted, he is subject to the same incapacities as if he had been

convicted on indictment, and may be imprisoned, with or without hard labour, for a term not exceeding six months, or to pay a fine not exceeding two hundred pounds [*Ib.* s. 43].

Disabilities. In addition to the above penalties, a person convicted on indictment of any corrupt practice, shall not be capable during a period of seven years, from the date of his conviction :

- (a.) Of being registered as an elector, or voting at any election in the United Kingdom, whether it be a parliamentary election or an election for any public office ; or of
- (b.) Holding any public or judicial office, and if he holds any such office, the office shall be vacated.

Any person so convicted of a corrupt practice shall be incapable of being elected to and sitting in the House of Commons during the seven years next after the date of his conviction ; and if at that date he has been elected to the House of Commons, his election shall be vacated from the time of such conviction [*Ib.* s. 6.]

Bribery at an election renders the vote of the briber void, and also the vote of the person bribed [*Southampton* (1869)] : 1 O'M. & H. 222.

"A person bribed loses his status as a voter, and his vote is an absolute nullity." Per MARTIN, B., in *Norwich case* (1869). *Ibid.* 8.

CHAPTER VII.

TREATING.

Treating at Common Law. General treating, like general bribery, will render an election void, although not traced to a candidate or his agents. MARTIN, B., in the *Bradford case* (No. 2) (1869), 1 O'M. & H. 40, says: "If it could be proved that there was treating in all directions on purpose to influence voters, that houses were thrown open where people could get drink without paying for it, by the common law such election would be void, because it would be carried on contrary to the principle of the law."

KEOGH, J., in the *Drogheda case* (1869), 1 O'M. & H. 257; 21 L. T. (N.S.) 403, considers it beyond question that an organised system of treating would upset an election, though not traceable to the candidate or his agent.

The *St. Ives election* (1874), 3 O'M. & H. 13, was set aside on the ground of general treating, although the respondent or his agent had nothing to do with it.

Statutory Treating. Up to the passing of the Corrupt and Illegal Practices Act, 1883, treating was regarded more favourably than bribery. WILLES, J., in the *Lichfield case* (1869), 20 L. T. (N.S.) 13, says: "I may observe that with respect to treating, that has, so far as my reading of the law is concerned, always stood upon a different footing from the more odious offence of bribery." If the candidate or his agent committed the offence the election was void, and if the seat was claimed for another, the person treated lost

his vote ; but other persons might treat with impunity, provided it was not sufficiently general to render the election void at common law. The penalties attaching to the offence have now been assimilated to those attaching to bribery, and extended to every person guilty of the offence. The definition of treating given in the above-mentioned Act is as follows :—

Any person who corruptly by himself or by any other person, either before, during, or after an election, directly or indirectly gives or provides or pays, wholly or in part, the expense of giving or providing any meat, drink, entertainment, or provision to or for any person, for the purpose of corruptly influencing that person, or any other person, to give or refrain from giving his vote at the election, or on account of such person or any other person having voted or refrained from voting, or being about to vote or refrain from voting at such election, shall be guilty of treating. 46 & 47 Vict. c. 51, s. 1.

And every elector who corruptly accepts or takes any such meat, drink, entertainment, or provision, shall also be guilty of treating. *Ibid.*

Corruptly. The giving or providing of meat, drink, &c., to fall within the statute must be corruptly given or provided. As in the case of bribery, “ corruptly ” does not necessarily mean anything “ wicked, immoral, or dishonest, but with the object and intention of doing that which the Legislature plainly meant to forbid ” [*Bewdley case* (1869)] : 1 O’M. & H. 19. When meat, drink, &c., is given to produce an effect upon the election, to gain popularity or to avoid unpopularity, it is considered to be done corruptly : [*Wallingford case* (1869)] : 1 O’M. & H. 59. The question of corruptness becomes, therefore, a question of intention to be gathered by the election court from the facts of the case.

Treating before the Election. The treating must be operative at the time of the election, and if it took place a long time before the election the court

will be slower to draw the inference that it was so operative. See *Windsor case* (1874): 2 O'M & H. 92.

Treating after an Election. The merely giving an entertainment after an election as an expression of gratitude or by way of rewarding voters, is not corrupt treating, and will not render the election void. "The treating which the Act calls corrupt as regards a by-gone election must be connected with something which preceded the election—must be the complement of something done or existing before, and calculated to influence the voter while the vote was in his power. An invitation given before to an entertainment to take place afterwards, or even a promise to invite, or a practice of giving entertainments after an election, which it may be supposed the voters would calculate on (see the *Poole case* (1874): 2 O'M. & H. 127), would, if followed up by the treat afterwards, give it the character of corrupt treating" [*Brecon case* (1871)]: 2 O'M. & H. 45.

In the *Kidderminster case* (1874), 2 O'M. & H. 170, the respondent had before the election promised his constituents a treat when the election was over. Arrangements were made to carry out the promise, but fears being entertained of the legality of the transaction, 1,000*l.* which had been contributed by the respondent was returned to him, although some contracts had been entered into and expenses incurred (towards which he contributed 300*l.*), in furtherance of the project. The election was declared void.

The quantity immaterial. The quantity of meat or drink given is wholly immaterial, if given corruptly.

BLACKBURN, J., in the *Wallingford case* (1869), 1 O'M. & H. 59, says: "The smallest quantity, as I think, was said forcibly enough by Mr. Justice Willes in one of the recent cases, a single thimbleful of

drink given with the intention will avoid the election."

But when the court is considering the evidence for the purpose of discovering the intention, the extent to which and the scale on which the treating is done is of importance. A large number of cases—a large number of small cases will make a strong one. The *Stroud* (No. 1) election (1874), 2 O'M. & H. 107, was set aside, because a large number of electors received refreshments, though of trifling value.

Treating non-electors. The persons treated need not be voters to make the treating corrupt. FITZGERALD, J., in the *Longford case* (1870), 2 O'M. & H. 15, says: "They (the agents) fell into the mistake of supposing that treating to be illegal must be the treating of voters. The treating of non-electors may be illegal and corrupt just as much as the treating of voters."

Treating women, in order that they might influence their fathers, brothers, and sweethearts, is illegal [*Tamworth case* (1869)]: 1 O'M. & H. 86.

Object of Treating. This must be to induce some person to vote or refrain from voting. Providing refreshments for persons who have declared their intention of supporting a particular candidate, such as committee-men and others engaged in promoting an election, is not corrupt treating [*Bradford* (No. 2) (1869)]: 1 O'M. & H. 39; *Carrickfergus* (1869) 1 O'M. & H. 268.

Where, however, 115 public-houses were opened ostensibly as committee-rooms, in which refreshments were supplied, and the evidence was "that voters were admitted to those committee-rooms, that the farce was gone through of putting down their names as committee-men, that their names being so put down refreshments were furnished to them whether they were

voters or non-voters or messengers," MARTIN, B., held it to be corrupt treating [*Bradford* (No. 1) (1869)]: 1 O'M. & H. 33.

Score at public-house. By having a score at a public-house the seat is unquestionably imperilled. BLACKBURN, J., in the *Wallingford case* (1869), 1 O'M & H. 60; 19 L. T. (N.S.) 768, says: "I can only say that, as a matter of prudence, I would strongly advise all candidates in future to have, under no pretence whatever, any score at all. Let them pay their agents handsomely if they like, and let the paid agents find themselves; let them pay nothing at all to supply refreshments for committee-men and those who act gratuitously. Let the committee-men and others, if they wish to have any refreshment, pay for it themselves."

Treating at meetings. Where a candidate presided at an Odd-Fellows' dinner, and supplied 27*l.* worth of champagne, it was held not to amount to corrupt treating, as the society was non-political [*Windsor case* (1869)]: 1 O'M. & H. 3. In the *Maidstone case*, W. & D. 71, similar treating, where the society was of a political character, was held to be an offence within the statute.

Refreshments at the time of registration. Refreshments may be given at the time of registration with a corrupt intention of influencing the voter; but if not given to any great extent, and only during the time of the registration, the court will not infer corrupt intention [*Hastings case* (1869)]: 1 O'M. & H. 220; *Coventry* (1869), *ib.* 106.

Imprudence of providing entertainment. "Whenever a candidate or his agent does give any meat or drink, he does a very foolish and imprudent thing, because it

becomes a question in every case, more or less, what the intention was in doing such a thing." Per BLACKBURN, J., in the *North Norfolk case* (1869): 1 O'M. & H. 244.

Person Treated. Formerly the only penalty to which the person treated was liable was the loss of his vote on a scrutiny [*Bradford case* (No. 2) (1869)]: 1 O'M. & H. 40. But now by the Corrupt and Illegal Practices Prevention Act, 1883, the person who corruptly *receives* any meat, drink, &c., is guilty of treating. 46 & 47 Vict. c. 51, s. 1.

Penalties. The penalties and incapacities imposed on account of treating will be found at p. 168.

To make a candidate personally liable for corrupt treating it must be done *by* himself, not merely with his knowledge and consent. 46 & 47 Vict. c. 51, s. 4.

Refreshment on nomination and polling day. Section 23 of 17 & 18 Vict. c. 102, which imposed a penalty of forty shillings on any person supplying refreshment to an elector, on the day of nomination or day of polling, has been repealed by the Corrupt and Illegal Practices Prevention Act, 1883. See schedule 5.

Under certain circumstances the election court may relieve a candidate from the consequences of treating by an agent. See p. 196.

CHAPTER VIII.

UNDUE INFLUENCE, &c.

Intimidation at Common Law. General intimidation, like general bribery or general treating, will render an election void at common law; but it "must be spread over such an extent of ground, it must permeate the community to such an extent, that freedom of election has ceased to exist." Per KEOGH, J., in the *Drogheda case* (1869), 1 O'M. & H. 259.

In the *North Durham case* (1874), 2 O'M. & H. 160, a committee room was wrecked, the police station was stormed, and the prisoners liberated; the vicar's house and other houses were assailed, a conveyance was flung over the cliff, and several persons were ill-treated by the mob. BRAMWELL, B., in delivering judgment in the case, says (p. 156):—"First of all, there is statutory intimidation—the intimidation contemplated by the statute which avoids the seat in cases in which a candidate or his agent is guilty of it. But besides that there is a common law intimidation, and it applies to a case where the intimidation is of such a character, so general and extensive in its operation, that it cannot be said that the polling was a fair representation of the opinion of the constituency. An election will not be set aside if the intimidation be local and partial, and does not affect the result of the election. But where it is of that general character which I have described, so that the result *may have been affected*, in my judgment it is no part of the duty of a judge to enter into a kind of scrutiny to see whether possibly, or probably even, or as a matter of conclu-

sion upon the evidence if that intimidation had not existed, the result would have been different. What he has to do in that case is to say that the burden of proof is cast upon the constituency incriminated, and unless it can be shown that the gross amount of intimidation could not possibly have affected the result of the election, it ought to be declared void."

If the violence was on the side of the defeated candidate, and the court were satisfied that the poll was a fair expression of the opinion of the constituency, the election would probably not be set aside. [*Dudley case* (1874)]: 2 O'M. & H. 121.

To set aside an election on the ground of general intimidation, "there is a fact that must be established, and that is, that persons possessing the ordinary nerve and courage of men have been prevented from going to the poll to record their votes." Per MARTIN, B., in the *Salford case* (1869), 1 O'M. & H. 141.

"It is not because riots, and violence, and assaults and beatings take place that that is to avoid an election, except it be of such a character as to render those persons who are to exercise the franchise reasonably unable or reasonably unwilling to exercise their right." [*Cheltenham case* (1869)]: 19 L. T. (N.S.) 818.

Statutory Intimidation. The provisions of the Corrupt Practices Prevention Act, 1854, respecting undue influence, have been repealed by the Corrupt and Illegal Practices Prevention Act, 1883, section 2 of which defines undue influence as follows:—

Every person who shall directly or indirectly, by himself or by any other person on his behalf, make use of or threaten to make use of any force, violence, or restraint, or inflict or threaten to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person, in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or

refrained from voting at any election, or who shall by abduction, duress, or any fraudulent device or contrivance impede or prevent the free exercise of the franchise of any elector, or shall thereby compel, induce, or prevail upon any elector either to give or to refrain from giving his vote at any election, shall be guilty of undue influence.

The definition of undue influence given above differs from that in the repealed section, in the *omission* of the words "in any other manner practise intimidation," and "otherwise interfere with the franchise of any voter." The words "temporal or spiritual" have also been inserted before injury. What effect the omissions and addition may have upon the law of undue influence it is impossible to say, but from the vagueness of the omitted words, and considering that spiritual intimidation has always been held to avoid an election, it is presumed that they will have little effect.

Force, violence, &c. As the use of force, violence, or restraint is a crime in itself, little need be said of these forms of undue influence. We have seen that if the violence is sufficiently general to satisfy the court that there has been no free expression of the opinion of the constituency, the election will be void at common law, although the candidate or his agent has had nothing to do with the violence. If, however, it can be shown that intimidation has been practised by the candidate or his agents, although slight and even unsuccessful, the election is void.

"It is clear," says BLACKBURN, J., in the *Stafford case* (1869) P. P. 120-69, p. 297, "that whenever intimidation is brought home to the agent it would upset the election, however slight the intimidation might be, provided it be intimidation." It will also upset the election, although the voter has not, in fact, been intimidated. [*Northallerton case* (1869)]: 1 O'M. & H. 173; 21 L. T. (N.S.) 117.

Threats. It is to be observed that threats have, if proved, the same effect as the actual employment of force, &c. "But where a threat has been made, or what is supposed to be a threat, and not acted upon, the point is very much more difficult to determine." Of course it all comes to the question of fact—was this a serious and deliberate threat meant to affect the vote, though, perhaps, repented of and not afterwards acted upon, or merely angry words not meaning anything?" Per BLACKBURN, J., in the *North Norfolk case* (1869), 1 O'M. & H. 242. See also the *Northallerton case* (1869), *supra*.

The threat must be operative at the time of the election, and unless it can be shown that the threat is one the force of which continues until the time of the election, although when made it may have subjected the parties to penalties, it is not a threat which will avoid the election. [*Windsor case* (1874)]: 2 O'M. & H. 91.

Where a candidate after an election in 1868 turned out of houses which he owned several tenants who had voted against him, and when he was returned in 1874 it was sought to unseat him on the ground of undue influence arising from his conduct in 1868, it was held that as there was no threat to repeat the conduct in 1874 the election was not void. *Ibid*.

Injury, damage, harm, and loss. This is not confined to cases of wrongful or violent injury, but includes cases where the person would have a perfect right to do the thing if it were *not done to affect the vote*. For example—

A landlord has a perfect right to turn out a tenant from year to year on giving him proper notice, but if he turns him out, or threatens to do so on account of his vote, that is inflicting harm or loss within the meaning of the Act. Again—

A master may dismiss his servant at pleasure, but if

he does it on account of his vote, for the purpose of coercing the voter, that is harm or loss within the meaning of the Act.

Similarly WILLES, J., in the *Westbury case* (1869), 1 O'M. & H. 52; 20 L. T. (N.S.) 22, lays it down that the words of the section are not limited to cases where the injury is such that an action might be maintained at law for the damage. He says: "Reading the 5th section by the light thrown on it by the 2nd, I can have no doubt that that which it would be bribery to promise the enjoyment of, it is, in this case at least, and with reference to these circumstances, intimidation to threaten the deprivation of."

Mixed motive. Where an employer has a reason for getting rid of a person apart from his politics, he is not bound to keep him on in his service merely because an election is coming on, but he must be prepared to prove clearly to the satisfaction of the court that he had a clear ground for discharging him apart from his politics. [*Blackburn* (1869)]: 1 O'M. & H. 205.

Withdrawal of custom. Where the loss is a *precarious* loss, such as the withdrawal of custom, it is a good deal a question of degree. To make it a loss within the statute, it must be such as to seriously affect the saleable value of the good-will of the man's business. Merely refusing to buy a box of ribbons would not be sufficient. [*North Norfolk case* (1869)]: 1 O'M. & H. 241. See *North Durham case* (1874), 2 O'M. & H. 158; *Reg. v. Barnwell*, 5 W.R. 557.

Illustrations. In the *Blackburn case* (1869), 1 O'M. & H. 204, undue influence was exercised by the threatened discharge in some cases, and the actual discharge or expulsion in others, shortly before the election, of workmen in certain mills. Workmen were also ill-treated by their fellow-workmen, but under circumstances which justified the inference that those in higher positions were responsible. Election void.

In the *Westbury case* (1869), 1 O'M. & H. 50, certain voters were dismissed shortly before the election by an agent of the respondent because they refused to promise not to vote for a certain candidate. They had been in their then employment for periods ranging from three to eight or nine years. Held, to be undue influence, and election void.

Threat to give up a pew in a Baptist chapel if the minister voted for a certain candidate is intimidation. [*Northallerton case* (1869)]: 1 O'M. & H. 168.

Threats by a landlord to turn people out of their houses, see *Windsor case* (1874), 2 O'M. & H. 92.

Spiritual Intimidation. Cases of undue clerical influence have been, it is believed, exclusively confined to Roman Catholic clergy in Ireland. Of course a priest has the same right as every other citizen to exercise his influence in a proper way. As FITZGERALD, J., says in the *Longford case* (1870), 2 O'M. & H. 16: "He may counsel, advise, recommend, entreat, and point out the true line of moral duty, and explain why one candidate should be preferred to another; and may, if he thinks fit, throw the whole weight of his character into the scale; but he may not appeal to the fears or terrors or superstition of those he addresses. He must not hold out hopes of reward here or hereafter, and he must not use threats of temporal injury, or of disadvantage, or of punishment hereafter. He must not, for instance, threaten to excommunicate, or to withhold the sacraments, or expose the party to any other religious disability, or denounce the voting for any particular candidate as a sin or as an offence involving punishment here or hereafter. If he does so with a view to influence a voter, or to affect an election, the law considers him guilty of undue influence. As priestly influence is so great, we must regard its exercise with extreme jealousy, and seek by the utmost

vigilance to keep it within due and proper bounds." See also *Galway County case* (1872), 2 O'M. & H. 57.

Landlord Influence. The landlord, like the priest, may exercise his legitimate influence. "Is it to be said that the landlord is to use no influence with his tenants? I deny the proposition altogether. I say it is right and becoming that a landlord should use his influence with his tenants. As long as he does not exercise that influence in an illegitimate manner, no steadier or safer or more legitimate influence can be used." Per KEOGH, J., in the *Galway Town case* (1869), 1 O'M. & H. 306.

In the *Galway case* (1872), 2 O'M. & H. 54, the same judge refused to report the Marquis of Clanricarde to the House of Commons because he had asked his tenants to vote for a certain candidate, or at least not to vote against him.

Landlords as polling agents. Referring to the presence of landlords in the polling booths, FITZGERALD, B., in the *Down case* (1880), P. P. 260-80, p. xii., says: "I entertain grave doubts whether this assemblage of landlords at the places where the actual polling of their tenants takes place is either prudent or proper."

Abduction, &c. This form of undue influence was formerly very prevalent. If any force or violence were used in the abduction, the offence would be ranked under the first clause of the section. The present clause strikes at those cases where there is an absence of force or violence. In the *Lichfield case* (1880), 3 O'M. & H. 136; P. P. 278-80, p. 159, two voters were taken out by their employer into the country on polling day on the pretence that he was going to buy potatoes. The men, after leaving Lichfield, were given some drink, shortly after which they fell asleep in the cart, and continued in a state of stupor until they were driven back

to town after the close of the poll. No attempt was made to buy any potatoes. This was held to be a case of abduction, and as it was done at the instigation of an agent the election was declared void. See also *Stalybridge case* (1869), 20 L. T. (N.S.) 78.

Fraudulent Device. In the *Gloucester case* (1873), 2 O'M. & H. 60, the respondent's committee had issued papers similar to the ballot papers, with a **X** opposite the respondent's name, and stating that papers marked otherwise would be void. This, it was contended, was a device to induce voters to vote for the respondent. The judge, however, held that the papers were not issued with that intention, and refused to avoid the election.

In the *Down case* (1880), 3 O'M. & H. 115, a notice was issued on the polling day to the effect that a candidate had withdrawn. The document, however, bore evidence of being only meant for a joke, and no one was misled by it. Had the facts been otherwise, it would probably have been considered a "device." The issue of such a placard would now be an illegal practice. 46 & 47 Vict. c. 51, s. 9.

Another ground on which the election was sought to be set aside was an assertion made by the agent of the respondent denying the secrecy of the ballot, and the circulation of a newspaper containing an account of a meeting at which the agent was alleged to have established the truth of his assertion. This, it was contended, was a contrivance to intimidate voters. FITZGERALD, B., considered that it was not within the statute as not being directed against specific individuals (see next paragraph). BARRY, J., was of opinion that where the device was carried on on a gigantic scale by the agent of the respondent, the election affected, or which may have been affected, by such means should not be allowed to stand.

Undue influence under the statute must be practised against ascertained persons. On this subject FITZGERALD, B., in the *Down case* (1880), 3 O'M. & H. 123, says : "The commission of the offence is in respect of some person or persons ascertained and supposed to be the immediate object or objects of the threat, use, or practice mentioned. But the statute includes also the case of impeding, preventing, or otherwise interfering with the free exercise of the franchise of *any voter* by abduction, duress, or any fraudulent device or contrivance. Here, too, the offence is an offence in respect of some person or persons supposed to be ascertained and to be the immediate object of the abduction, &c."

Penalties. For penalties, see Chapter VI., p. 168. It is to be remarked that to make the candidate guilty *personally* of this offence it must be shown not merely that the undue influence was committed *with his knowledge and consent*, but actually committed *by him*. 46 & 47 Vict. c. 51, s. 4.

Vote struck off. A vote obtained through intimidation is bad, and will be struck off on a scrutiny, but will be added to the candidate for whom the person intimidated intended to vote. [*Oldham case* (1869)]: 1 O'M. & H. 160; 20 L. T. (N.S.) 315.

The vote of a person intimidated by a representation is void, although the representation is false. *Ibid.*

The Ballot Act, 1872, enacts that if a person has been intimidated by a candidate, or any person on his behalf, a vote is to be struck off on a scrutiny from the number of votes recorded for such candidate for each person intimidated. 35 & 36 Vict. c. 33, s. 25.

Peers and lords lieutenant of counties. By a resolution of the 27th April, 1802, it was declared :—

"That it was a high infringement of the liberties of the Commons of the United Kingdom for a peer or prelate, other than a peer of Ireland elected to serve

in Parliament, to concern himself in the election of members to serve for the Commons in Parliament, or for any lord lieutenant of a county to avail himself of any authority derived from his commission to influence the election of any members to serve in Parliament."

KEOGH, J., in the *Galway case* (1872), 2 O'M. & H. 54, declined to report the Marquis of Clanricarde for undue influence because he had asked his tenants to vote for a candidate, or at all events not to vote against him, apparently on the ground that the above resolution was not law, and further, that it was never intended by the House of Commons to deprive a nobleman, who was also a landlord, of his legitimate influence. See also the cases referred to by the learned judge.

On the 10th December, 1779, it was resolved "That it is highly criminal in any minister or ministers, or other servants of the Crown, directly or indirectly, to use the powers of office in the election of representatives to serve in Parliament." See the *Dover case*, W. & B. 132.

PERSONATION.

As questions respecting personation are likely to arise during the progress of the voting, the question has been fully treated of in a previous chapter (see p. 47); little, therefore, remains to be said now.

The offence is a corrupt practice within the meaning of the Corrupt and Illegal Practices Prevention Act, 1883, and of the Parliamentary Elections Act, 1868. See 46 & 47 Vict. c. 51, s. 3.

Definition. A person shall, for all the purposes relating to Parliamentary and municipal elections, be deemed guilty of the offence of personation who at an election for a county or borough, or at a municipal election, applies for a ballot paper in the name of some other person, whether that name be that of a person

living or dead, or of a fictitious person, or who, having voted once at any such election, applies at the same election for a ballot paper in his own name. 35 & 36 Vict. c. 33, s. 24; 46 & 47 Vict. c. 51, s. 3, Sched. III., Part III.

Punishment. A person who commits the offence of personation, or who aids, abets, counsels, or procures its commission, is guilty of felony, and liable to a term of imprisonment not exceeding two years with hard labour. 46 & 47 Vict. c. 51, s. 6 (2).

Payment to induce. It was held in the *Lisburn case*, W. & B. 225, that payment to induce a man to personate his father was bribery, but it is submitted that such an offence would now be punished under the above section.

A person who applies for a ballot paper in the *bonâ fide* belief that he is entitled to vote is not guilty of the offence of personation; nor is the person who believing a person entitled to vote induces him to vote guilty of any offence. [*Gloucester case* (1873)]: 2 O'M. & H. 62; *Athlone* (1880), 3 *ib.* 57; *Carrickfergus* (1880), P. P. 337-80, p. 14.

FALSE DECLARATION RESPECTING ELECTION EXPENSES.

This offence, the most recent addition to the list of corrupt practices, is committed when "A candidate or election agent knowingly makes the declaration required by this section (section 33 of 46 & 47 Vict. c. 51) falsely. On conviction he is liable to the punishment for wilful and corrupt perjury. Such offence is also to be deemed a corrupt practice within the meaning of this Act." 46 & 47 Vict. c. 51, s. 33 (7).

For forms of the declarations here referred to, see pp. 118, 119, 122.

CHAPTER IX.

I. ILLEGAL PRACTICES, &c.

Certain practices at elections, which gave rise to many abuses, and which were frequently commented on by the judges who tried election petitions, are now prohibited by the Corrupt and Illegal Practices Prevention Act, 1883. The offences in question are arranged in two classes—

1. Illegal practices.
2. Illegal payments, employment, and hiring.

Illegal Practices. A payment or contract payment, for the purpose of promoting or procuring the election of a candidate—

a. On account of the *conveyance of electors* to or from the poll, whether for hiring horses or carriages, or for railway fares or otherwise. 46 & 47 Vict. c. 51, s. 7 (1).

It should be observed that this clause is not limited to payments made by the candidate or his agents, but that any person who pays the railway fare of an elector, or hires a carriage to convey him to the poll, for the purpose of promoting or procuring the election of a candidate, is guilty of the offence.

b. To an elector on account of the use of any house, land, building, or premises for the *exhibition* of any address, bill, or notice, or on account of the exhibition of any address, bill, or notice.

The prohibition here only extends to payments made to electors. There is nothing illegal in payments made

to non-electors, provided that they are not made with a view to influence votes, in which case they would be bribery.

The words "or on account of the exhibition of any address, bill, or notice" appear wide enough to render payment to an elector for acting as a "*sandwich-man*," unless that be his ordinary calling, illegal; for it would certainly be a payment on account of the "exhibition" of an address, &c.

Where it is the ordinary business of an elector as an advertising agent to exhibit for payment bills and advertisements, a payment to or contract with such elector, if made in the ordinary course of business, is not to be deemed an illegal practice. *Ib.* s. 7 (3).

It is not clear whether or not a person so employed is prohibited from voting, but there appears no good reason why he should not vote. Subjoined are the provisions of the Acts relative to persons employed for payment voting—

No elector who within six months before or during any election for any county or borough shall have been retained, hired, or employed, for all or or any of the purposes of the election on behalf of any candidate at such election, as agent, canvasser, clerk, or messenger, or in other *like* employment, shall be entitled to vote at such election; and if he shall so vote, he shall be guilty of a misdemeanor. 30 & 31 Vict. c. 102, s. 11.

Where any person retained or employed for reward by or on behalf of a candidate, for all or any of the purposes of the election, as agent, clerk, messenger, or in any other employment, is proved on the trial of an election petition to have voted at such election, there shall, on a scrutiny, be struck off from the number of votes appearing to have been given to such candidate one vote for every person so retained or employed for reward as aforesaid. 35 & 36 Vict. c. 33, s. 25.

The persons who may be legally employed for pay-

ment under Schedule I. of the Corrupt and Illegal Practices Prevention Act, 1883, may not vote. The persons are election agent, sub-agents, polling agents, clerks, and messengers.

A paid election agent, sub-agent, polling agent, clerk, or messenger in any division of a parliamentary borough is not only prohibited from voting for that division, but also for any other division. 48 & 49 Vict. c. 23, s. 15.

c. Committee rooms. On account of any committee room in excess of the number (see p. 115) allowed by the First Schedule to the Act. 46 & 47 Vict. c. 51, s. 7.

A "committee room" does not include any house or room occupied by a candidate at an election as a dwelling, by reason only of the candidate there transacting business with his agents in relation to such election; nor is a room to be considered a committee room by reason only of the candidate or any agent addressing therein electors, committee-men, or others. 46 & 47 Vict. c. 51, s. 64.

The expense of a house occupied by a candidate as a dwelling during an election should be paid out of "personal expenses." *Ibid.*

For premises not to be used as committee rooms, see p. 195.

Subject to such exception as may be allowed in pursuance of this Act, if any payment or contract of payment is knowingly made in contravention of the above section, either before, during, or after an election, the person making the payment is guilty of an illegal practice, and the person receiving such payment or being party to such contract, knowing the same to be in contravention of the Act, shall also be guilty of an illegal practice. *Ibid.* s. 7.

A candidate is responsible for any of the above mentioned illegal practices committed by his agent, but relief may in some cases be granted. See p. 196.

Expense in Excess of Maximum. Any candidate or his election agent who knowingly pays any sum or *incurs* any expense, whether before, during, or after an election, in excess of any maximum amount specified in the First Schedule to the Act (see p. 116), is (subject to such exception as may be allowed in pursuance of the Act) guilty of an illegal practice. 46 & 47 Vict. c. 51, s. 8. As to rights of creditors, see p. 191.

It will be observed that not only *paying* but *incurring* expenses is prohibited by this section.

Prohibited Persons Voting. If any person votes, or induces or procures any person to vote at any election, knowing that he or such person is prohibited, whether by this or any other Act, from voting at such election, he is guilty of an illegal practice. 46 & 47 Vict. c. 51, s. 9 (1).

A person who commits or procures a person to commit personation is subject to the penalties set forth in section 6 (2). See p. 168.

For persons prohibited from voting, see p. 124.

Publishing False Statement of Withdrawal. Any person who, before or during an election, knowingly publishes a false statement of the withdrawal of a candidate at such election for the purpose of promoting or procuring the election of another candidate, is guilty of an illegal practice. 46 & 47 Vict. c. 51, s. 9 (2).

The candidate is not liable, nor will his election be avoided, for any illegal practice under section 9 (*i.e.* prohibited persons voting, and publication of false statement of withdrawal) committed by his agent other than his election agent.

Payment of barred claims. An election agent is guilty of an illegal practice who pays a claim not sent in within the time limited for sending in such claim, or who pays a claim after the time limited for such payment. 46 & 47 Vict. c. 51, s. 29.

Providing money. Any person who provides money, or makes any payment, on account of any election except through the election agent, is guilty of an illegal practice. 46 & 47 Vict. c. 51, s. 28.

This does not apply to a tender of security to the returning officer, nor to any small expense legally incurred which is not to be repaid.

Publisher's Name on Placards. A candidate or election agent who causes any bill, placard, or poster relating to the election to be printed, published, or posted, which does not bear on its face the name and address of the printer and publisher, is guilty of an illegal practice. Any other person guilty of this offence is liable, on summary conviction, to a fine not exceeding 100*l.* 46 & 47 Vict. c. 51, s. 18.

Failure to make the return and declarations respecting election expenses is an illegal practice. 46 & 47 Vict. c. 51, s. 33 (7). See p. 110.

Saving for creditors. The provisions of this Act prohibiting certain payments and contracts for payments, and the payment of any sum, and the incurring of any expense in excess of a certain maximum, is not to affect the right of any creditor who, when the contract was made or the expense was incurred, was in ignorance of the same being in contravention of the Act. 46 & 47 Vict. c. 51, s. 19.

Penalty. A person guilty of an illegal practice shall, on summary conviction, be liable to a fine not exceeding 100*l.*, and be incapable during a period of

five years from the date of his conviction of being registered as an elector, or of voting at any election (whether it be a parliamentary election or an election for any public office within the meaning of the Act) held for or within the county or borough in which the illegal practice has been committed. 46 & 47 Vict. c. 51, s. 10.

Election Court may Inquire into Illegal Practices. Sub-section 14 of section 11 of the Parliamentary Elections Act, 1868, is extended, and the election court may now inquire into and report upon illegal practices.

Candidate personally guilty. If the court report that any illegal practice has been committed by or with the knowledge and consent of any candidate, the candidate is incapable of being elected to or sitting in the House of Commons for the county or borough in respect to which the illegal practice has been committed for the seven years next after the date of the report; and if he has been elected his election is void. He is further subject to the same incapacities as if at the date of the report he had been convicted of such illegal practice. 46 & 47 Vict. c. 51, s. 11.

Guilty by agents. If the report of the election court is that a candidate has been guilty by his agents of any illegal practice in reference to such election, that candidate shall not be capable of being elected to or sitting in the House of Commons for the county or borough in reference to which the illegal practice was committed *during the Parliament for which the election was held*, and if he has been elected his election shall be void. *Ibid.*

II. ILLEGAL PAYMENTS, &c.

Providing Money contrary to the Act. Where a person knowingly provides money for—

Any payment which is contrary to the provisions of the Act ;

Any expenses incurred in excess of any maximum amount allowed by the Act ;

Replacing money expended in any such payment or expense ;

except where the same may have been previously allowed to be an exception, such person is guilty of illegal payment. 46 & 47 Vict. c. 51, s. 13.

Letting Hackney Carriages. A person who lets, lends, or employs for the purpose of conveying electors to or from the poll any public stage or hackney carriage, or any horse or other animal kept or used for drawing the same, or any carriage, horse, or other animal which he keeps or uses for the purpose of letting out for hire, and if he lets, lends, or employs such carriage, horse, or other animal, knowing that it is intended to be used for the purpose of the conveyance of voters to the poll, is guilty of an *illegal hiring*. 46 & 47 Vict. c. 51, s. 14 (1)

Hiring Hackney Carriages. A person who hires, borrows, or uses for the purpose of the conveyance of electors to or from the poll any carriage, horse, or other animal which he knows the owner thereof is prohibited to let, lend, or employ for that purpose, is guilty of an *illegal hiring*. *Ibid.*

Nothing in the Act is to prevent a carriage, horse, or other animal being let to or hired, employed, or used by an elector, or several electors at their joint cost, for the purpose of being conveyed to or from the poll. *Ibid.*

Any person may lend his private carriage, and no person is to be liable to any duty or to take out a license for any carriage by reason only of such carriage being used, without payment or promise of payment, for the conveyance of electors to or from the poll. *Ibid.*

Corrupt Withdrawal of Candidate. Any person who corruptly induces or procures any other person to withdraw from being a candidate, in consideration of any payment or promise of payment, is guilty of illegal payment, and the person withdrawing in consequence of such inducement or procurement is also guilty of illegal payment. *Ib. s. 15.*

Cockades. Payments or contracts for payments made, either before, during, or after an election, on account of bands of music, torches, flags, banners, cockades, ribbons, or other marks of distinction, for the purpose of promoting or procuring the election of a candidate, is an illegal payment. Any person being a party to or receiving such payment shall also be guilty of illegal payment if he knew that the same was contrary to law. *Ib. s. 16.*

It is provided by section 7 of the Corrupt Practices Prevention Act, 1854, that: "No candidate before, during, or after any election, shall in regard to such election, by himself or agent, directly or indirectly, *give or provide* to or for any person having a vote at such election, or to or for any inhabitant of the county, city, or borough, or place for which the election is had, any cockade, ribbon, or other mark of distinction; and every person so giving or providing shall for every such offence forfeit the sum of two pounds to such person as shall sue for the same, together with full costs of suit."

The earlier Act strikes at the *giving or providing* cockades, &c., by the *candidate or his agent*; the later Act prohibits *payments* for such things by *any person*.

Illegal Employment. No person shall, for the purpose of promoting or procuring the election of any candidate, be engaged or employed for payment, or promise of payment, for any purpose or in any capacity whatever, except for the purposes or capacities mentioned in the first or second parts of the first schedule to the Act, or except so far as payment is authorized by the first or second parts of the first schedule to the Act. 46 & 47 Vict. c. 51, s. 17 (1).

Canvassers cannot be now employed for payment, nor, it is submitted, can paid clerks or messengers be employed in canvassing; this would be employing them for a purpose and in a capacity not mentioned in the Act. See the difference between a canvasser and messenger as laid down in the *Windsor case* (1869), *ante*, p. 139.

Subject to such exception as may be allowed by the Act, if any person is employed in contravention of the Act, either before, during, or after an election, the person employing him is guilty of illegal employment, and the person employed shall also be guilty of illegal employment if he knew that he was employed contrary to law. 46 & 47 Vict. c. 51, s. 17.

Premises not to be used as Committee Rooms.

Licensed Premises. Any premises on which intoxicating liquor is sold, whether wholesale or retail, and whether the license be for consumption on or off the premises.

Certain Clubs. Any premises where any intoxicating liquor is sold, or is supplied to members of a club, society, or association other than a permanent political club; or

Refreshment Rooms. Any premises whereon refreshment of any kind, whether food or drink, is ordinarily sold for consumption on the premises; or

Elementary Schools. The premises of any public elementary school in receipt of an annual parliamentary

grant, or any part of any such premises, are not to be used as a committee room for the purpose of promoting or procuring the election of a candidate, and if any person hires or uses any such premises or any part thereof for a committee room, he is guilty of illegal hiring, and the person letting such premises or part, if he knew it was intended to use the same as a committee room, is also guilty of illegal hiring. See note, p. 25.

Exception. The foregoing provisions are not to apply to any part of such premises which is ordinarily let for the purposes of chambers or offices, or the holding of public meetings, if such part has a separate entrance and no direct communication with any part of the premises on which any intoxicating liquor or refreshment is sold or supplied. 46 & 47 Vict. c. 51, s. 20.

Penalty. A person guilty of an offence of illegal payment, employment or hiring, shall, on summary conviction, be liable to a fine not exceeding one hundred pounds. 46 & 47 Vict. c. 51, s. 21.

A candidate or an election agent of a candidate who is personally guilty of an offence of illegal payment, employment, or hiring, shall be guilty of an illegal practice. *Ibid.*

POWER TO EXCUSE CORRUPT AND OTHER PRACTICES.

Where, upon the trial of election petition, the election court report that a candidate has been guilty by his agents of treating, undue influence, or illegal practice, in reference to the election, and that it has been proved :

- Conditions.* 1. That no corrupt or illegal practice was committed by the candidate or his election agent, and that the offences mentioned were committed contrary to the orders and without the sanction or connivance of such candidate or his election agent ;

2. That the candidate and his election agent took all reasonable means for the prevention of corrupt and illegal practices;
3. That the offences reported were of a trivial, unimportant, and limited character;
4. That in all other respects the election was free from any corrupt or illegal practice;

then the election of such candidate shall not be void, by reason of the offences mentioned in that report, nor shall the candidate be subject to any incapacity. 46 & 47 Vict. c. 51, s. 22.

High Court may Excuse. Where, on application, it is shown by sufficient evidence to the High Court or to an election court:

1. That any act or omission of a candidate or of his election agent, or any other agent or person, would by reason of being a payment, engagement, employment, or contract in contravention of the Act, or being the payment of a sum or the incurring of expense in excess of any maximum allowed by the Act, or of otherwise being in contravention of any of the provisions of the Act, be but for this section an illegal practice, payment, employment, or hiring.
2. That such act or omission arose from inadvertence or accidental miscalculation, or some other reasonable cause of a like nature, and in any case did not arise from any want of good faith.
3. That such notice of the application has been given in the county or borough for which the election was held as to the court seems fit.

If, under the circumstances, it seems just to the court they may allow such omission or act to be an exception from the provisions of the Act, and the candidate, agent, or person shall not be subject to any of the consequences under the Act for the said Act or omission. *Id.* s. 23

As regards disputed claims, errors in or failure to make the return and declarations respecting election expenses, see chap. III., p. 109.

ELECTION PETITION.

Who may Present a Petition. A petition may be presented by one or more of the following persons :

1. Some person who voted or had a right to vote at the election.
2. Some person claiming a right to be returned or elected.
3. Some person alleging himself to have been a candidate. 31 & 32 Vict. c. 125, s. 5.

Time and Manner of Presentation. The petition must be in such form and state such matters as may be prescribed, and must be signed by the petitioner or petitioners. 31 & 32 Vict. c. 125, ss. 6, 20.

It must be presented within 21 days after the return of the member whose election is complained of has been made to the Clerk of the Crown in Chancery, or when the petition relates to an Irish election to the Clerk of the Crown and Hanaper. *Ibid.*

Where the petition questions the election upon a specific allegation of a payment or other reward, made by any member, or on his account, or with his privity, since the time of the return, in pursuance of a corrupt practice, the petition may be presented at any time within 28 days of such payment. *Ibid.*, and *Kidderminster case* (1874): 2 O'M. & H. 170.

The return is not considered to have been made until it reaches the hands of the Clerk of the Crown so that he can act upon it (*Hurdle v. Waring*, 9 L. R. C. P. 435).

Sundays, Christmas Day, Good Friday, and public fasts and thanksgiving days are excluded. Sect. 49.

Illegal Practice. When an election petition questions the return upon an allegation of an illegal practice, such

petition, so far as respects such illegal practice, may be presented :

(a) At any time within fourteen days after the day on which the returning officer receives the return and declarations respecting election expenses by the member to whose election the petition relates, and his election agent.

(b) Where a petition specifically alleges a payment or some other act to have been made or done since the said day by a member or an agent of the member, or with the privity of the member or his election agent in pursuance or in furtherance of the illegal practice alleged in the petition, the petition may be presented within twenty-eight days after the date of such payment or other act. 46 & 47 Vict. c. 51, s. 40.

Any election petition presented within the time limited by the Parliamentary Elections Act, 1868, may, for the purpose of questioning the return or election upon an allegation of an illegal practice, be amended with the leave of the High Court within the time within which a petition questioning the return upon the allegation of that illegal practice can under this section be presented. *Ibid.*

This section applies in the case of an offence relating to the return and declarations respecting election expenses as if it were an illegal practice, and also applies notwithstanding that the act constituting the alleged illegal practice amounted to a corrupt practice. *Ibid.*

Where the return and declarations are received on different days, the day on which the last of them is received, and

Where there is an authorized excuse or excuses for failing to make the return and declarations, the date of the allowance of the excuse, or of the allowance of the last excuse is to be substituted for the day on which the return and declarations are received by the returning officer. *Ibid.*

TABULAR STATEMENT

BRIBERY.

The following persons are

Every person who shall, directly or indirectly, by

| | | | | | | |
|--|---|-----|---|------------------------------------|---|---------------|
| give lend agree to give agree to lend offer promise promise to procure promise to endeavour to procure | } | any | { | money or valuable consideration | } | to or for any |
|--|---|-----|---|------------------------------------|---|---------------|

or

who shall CORRUPTLY do any such act as aforesaid on account of

Every person who shall, directly or indirectly, by

| | | | | | | |
|--|---|-----|---|------------------------------------|---|---------------|
| give procure agree to give agree to procure offer promise promise to procure promise to endeavour to procure | } | any | { | office, place, or employment | } | to or for any |
|--|---|-----|---|------------------------------------|---|---------------|

or

who shall CORRUPTLY do any such act as aforesaid, on account of

Every person who shall, directly or indirectly, by

| | | |
|---|---|--|
| make any gift loan offer promise procurement or agreement as aforesaid | } | to or for any person, in order to induce such person to |
|---|---|--|

OF OFFENCES.

BRIBERY.

guilty of bribery :—

himself or by any other person on his behalf,

$$\left\{ \begin{array}{l} \text{voter} \\ \text{person on behalf of any} \\ \text{voter} \\ \text{other person} \end{array} \right\} \left\{ \begin{array}{l} \text{in order to induce} \\ \text{any voter to} \end{array} \right\} \left\{ \begin{array}{l} \text{vote,} \\ \text{or refrain from} \\ \text{voting;} \end{array} \right.$$

such voter HAVING voted or refrained from voting at any election.

himself or by any other person on his behalf,

$$\left\{ \begin{array}{l} \text{voter,} \\ \text{person on behalf of any} \\ \text{voter} \\ \text{other person} \end{array} \right\} \left\{ \begin{array}{l} \text{in order to induce} \\ \text{such voter to} \end{array} \right\} \left\{ \begin{array}{l} \text{vote} \\ \text{or} \\ \text{refrain from voting;} \end{array} \right.$$

any voter HAVING voted or refrained from voting at any election.

himself or by any other person on his behalf,

$$\left\{ \begin{array}{l} \text{procure or} \\ \text{endeavour to procure} \end{array} \right\} \left\{ \begin{array}{l} \text{the return of any person to serve in Parlia-} \\ \text{ment, or the vote of any voter at any election.} \end{array} \right.$$

TABULAR STATEMENT

BRIBERY.

| | |
|--|--|
| Every person who shall, upon or in consequence of any such | |
| gift loan offer promise procurement, or agreement | { procure engage to procure promise to procure, or endeavour to procure } |

| | |
|--|---|
| Every person who shall | |
| advance pay, or cause to be paid | { any money, to the use of any other |
| or who shall <i>knowingly</i> | |
| pay, or cause to be paid | { any money to any person in |

| | |
|---|--|
| Every voter who shall, <i>before</i> or <i>during</i> any election, directly or | |
| receive agree, or contract for | { any money gift loan valuable consideration office place employment } |

| | |
|--|---|
| Every person who shall <i>after</i> any election, &c., | |
| receive any | { money, or valuable consideration } |

OF OFFENCES—*continued.*

BRIBERY.

the return of any person to parliament, or
the vote of any voter at any election.

person, with the *intent* that such money or any part thereof shall be
expended in bribery ;

{ discharge or } of any money wholly, or in part expended in bribery
{ repayment } in any election.

indirectly, &c.,

for himself or for any other person for { voting
agreeing to vote
refraining from voting
agreeing to refrain from voting.

on account of any person having { voted, or
refrained from voting,
or

having induced any other person to { vote, or
refrain from voting.

TABULAR STATEMENT

TREATING.

ANY PERSON (*a*) who CORRUPTLY, by himself or by any

| | | | | |
|-----------------------------------|--|---|--|---|
| before, during, or after | $\left\{ \begin{array}{l} \text{an election,} \\ \end{array} \right\}$ | $\left\{ \begin{array}{l} \text{directly} \\ \text{or} \\ \text{indirectly} \end{array} \right\}$ | $\left\{ \begin{array}{l} \text{gives,} \\ \text{provides,} \\ \text{pays wholly,} \\ \text{pays in part,} \end{array} \right\}$ | $\left\{ \begin{array}{l} \text{the expense of giving} \\ \text{or} \\ \text{providing} \end{array} \right\}$ |
| | | | | |

and

Every elector (*b*) who CORRUPTLY accepts or takes such

-
- (*a*) Before the Corrupt and Illegal Practices Prevention Act,
 (*b*) This provision is entirely new.

OF OFFENCES—*continued.*

TREATING.

* other person, either—

| | | |
|--|---|--|
| any meat, drink, entertainment, and provision. | $\left. \begin{array}{c} \text{to or for any} \\ \text{person,} \end{array} \right\}$ | $\left\{ \begin{array}{l} \text{for the purpose of corruptly influencing that} \\ \text{person, or any other person, to give his vote,} \\ \text{to refrain from giving his vote,} \\ \text{or} \\ \text{on account of that person, or any other person,} \\ \text{having voted, refrained from voting, being} \\ \text{about to vote, being about to refrain from} \\ \text{voting;} \end{array} \right.$ |
|--|---|--|

meat,
drink,
entertainment, or
provision,

shall be guilty of treating.

1883, only the candidate or his agents could be guilty of treating.

TABULAR STATEMENT

UNDUE

(45 & 47 VICT.

The following are guilty

Every person who shall directly or indirectly, by

| | | | | |
|--|-----------------------|---|--------------------------------------|--|
| make use of or threaten to make use of or inflict or threaten to inflict | { any { | { force, violence, or restraint | { temporal (a) or spiritual | { injury, damage, harm, or loss |
| { by himself or by any other person, any | { or shall thereby | | | |

or who shall by

| | | | |
|--|---|--|-----------------------------|
| abduction, duress, or any fraudulent device or contrivance | { impede or prevent or shall thereby { compel, induce, or prevail upon | { the free exercise of the { any elector to | { give, or refrain |
|--|---|--|-----------------------------|

(a) The words "temporal" and "spiritual" were not in the

OF OFFENCES—*continued.*

INFLUENCE.

CAP. 51, SEC. 2.)

of undue Influence :—

himself or by any other person on his behalf,

| | | | |
|----------------------------|---|--|---|
| upon or against any person | { | in order to induce or compel such person | { to vote, or to refrain from voting |
| | | or | |
| | { | on account of such person having | { voted, or refrained from voting ; |

| | | |
|--------------------------|---|------------------|
| franchise by any elector | } | at any election. |
| from giving | | |
| | { | his vote |

definition of undue influence as given in 17 & 18 Vict. c. 102.

Appndx.

APPENDIX.

PARLIAMENTARY ELECTIONS (RETURNING OFFICERS).

38 & 39 VICT. CAP. 84.

An Act to regulate the Expenses and to control the Charges of Returning Officers at Parliamentary Elections.

[13th August, 1875.]

WHEREAS it is expedient to amend the law relating to the expenses and charges of returning officers at parliamentary elections:

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:

Construc-
tion of
Act.

1. The Ballot Act, 1872, as modified by this Act, and this Act, shall be construed as one Act.

This Act shall apply only to parliamentary elections.

Payments
to returning
officers.

2. The returning officer at an election shall be entitled to his reasonable charges, not exceeding the sums mentioned in the first schedule to this Act, in respect of services and expenses of the several kinds mentioned in the said schedule, which have been properly rendered or incurred by him for the purposes of the election.

The amount of such charges shall be paid by the candidates at the election in equal several shares, or where there is only one candidate, by such candidate. If a candidate is nominated without his consent, the persons by whom his nomination is subscribed shall be jointly and severally liable for the share of the charges for which he would be liable if he were nominated with his consent.

A returning officer shall not be entitled to payment for any other services or expenses, or at any greater rates than as in the said schedule mentioned, any law or usage to the contrary notwithstanding. **Appndx.**

3. The returning officer, if he think fit, may, as herein-after provided, require security to be given for the charges which may become payable under the provisions of this Act in respect of any election. **Returning officer may require deposit or security.**

The total amount of the security which may be required in respect of all the candidates at an election shall not in any case exceed the sums prescribed in the third schedule to this Act.

Where security is required by the returning officer it shall be apportioned and given as follows; viz.,

- (1.) At the end of the two hours appointed for the election the returning officer shall forthwith declare the number of the candidates who then stand nominated, and shall, if there be more candidates nominated than there are vacancies to be filled up, apportion equally among them the total amount of the required security:
- (2.) Within one hour after the end of the two hours aforesaid, security shall be given, by or in respect of each candidate then standing nominated, for the amount so apportioned to him:
- (3.) If in the case of any candidate security is not given or tendered as herein mentioned, he shall be deemed to be withdrawn within the provisions of the Ballot Act, 1872:
- (4.) A tender of security in respect of a candidate may be made by any person:
- (5.) Security may be given by deposit of any legal tender or of notes of any bank being commonly current in the county or borough for which the election is held, or, with the consent of the returning officer, in any other manner:
- (6.) The balance (if any) of a deposit beyond the amount to which the returning officer is entitled in respect of any candidate shall be repaid to the person or persons by whom the deposit was made.

4. Within twenty-one days after the day on which the return is made of the persons elected at the election, the **The accounts of a returning**

Appndx.

officer may
be taxed.

returning officer shall transmit to every candidate (a) or other person from whom he claims payment either out of any deposit or otherwise of any charges in respect of the election, or to the agent for election expenses of any such candidate, a detailed account showing the amounts of all the charges claimed by the returning officer in respect of the election, and the share thereof which he claims from the person to whom the account is transmitted. He shall annex to the account a notice of the place where the vouchers relating to the account may be seen, and he shall at all reasonable times and without charge allow the person from whom payment is claimed, or any agent of such person, to inspect and take copies of the vouchers.

The returning officer shall not be entitled to any charges which are not duly included in his account.

If the person from whom payment is claimed objects to any part of the claim, he may, at any time within fourteen days from the time when the account is transmitted to him, apply to the court as defined in this section for a taxation of the account, and the court shall have jurisdiction to tax the account in such manner and at such time and place as the court thinks fit, and finally to determine the amount payable to the returning officer and to give and enforce judgment for the same as if such judgment were a judgment in an action in such court, and with or without costs at the discretion of the court.

The court for the purposes of this Act shall be in the city of London the Lord Mayor's Court, and elsewhere in England the County Court, and in Ireland the Civil Bill Court, having jurisdiction at the place of nomination for the election to which the proceedings relate.

The court may depute any of its powers or duties under this Act to the registrar or other principal officer of the court.

Nothing in this section shall apply to the charge of the returning officer for publication of accounts of election expenses.

Claims
against a
returning
officer.

5. Every person having any claim against a returning officer for work, labour, materials, services, or expenses in respect of any contract made with him by or on behalf of the

(a) The account is now to be sent to the election agent of the candidate, and need not be sent to the candidate himself. 46 & 47 Vict. c. 51, s. 32 (2).

returning officer for the purposes of an election, except for publication of accounts of election expenses, shall, within fourteen days after the day on which the return is made of the person or persons elected at the election, transmit to the returning officer the detailed particulars of such claim in writing, and the returning officer shall not be liable in respect of anything which is not duly stated in such particulars. **Appndx.**

Where application is made for taxation of the accounts of a returning officer, he may apply to the court as defined in this Act to examine any claim transmitted to him by any person in pursuance of this section, and the court, after notice given to such person, and after hearing him, and any evidence tendered by him, may allow or disallow, or reduce the claim objected to, with or without costs, and the determination of the court shall be final for all purposes, and as against all persons.

6. In any case to which the fourteenth section of the Ballot Act, 1872 (*b*), is applicable, it shall be the duty of the returning officer, so far as is practicable, to make use of ballot boxes, fittings, and compartments provided for municipal or school board elections, and the court, upon taxation of his accounts, shall have regard to the provisions of this section. Use of ballot boxes, &c., provided for municipal elections.

7. There shall be added to every notice of election to be published under the provisions of the Ballot Act, 1872, the notification contained in the second schedule to this Act with respect to claims against returning officers (*c*). Notices to be given by returning officers.

8. Nothing in this Act shall apply to an election for any university or combination of universities. Saving of the universities.

(*b*) Section 14 of the Ballot Act enacts, that "where a parliamentary and municipal borough occupy the whole or any part of the same area, any ballot boxes or fittings for polling stations and compartments provided for such parliamentary borough or such municipal borough may be used in any municipal or parliamentary election (as the case may be) in such borough free of charge, and any damage other than reasonable wear and tear caused to the same shall be paid as part of the expenses of the election at which they are so used."

(*c*) See p. 76.

Appndx.

Commence-
ment and
duration of
Act.

9. This Act shall come into operation on the first day of October, one thousand eight hundred and seventy-five, and continue in force until the thirty-first day of December, one thousand eight hundred and eighty (*a*), and no longer, unless Parliament shall otherwise determine.

Short title.

10. This Act may be cited for all purposes as the "Parliamentary Elections (Returning Officers) Act, 1875."

Not to
apply to
Scotland.

11. This Act shall not apply to Scotland (*b*).

SCHEDULES.

FIRST SCHEDULE.

CHARGES OF RETURNING OFFICERS.

See p. 71.

SECOND SCHEDULE.

NOTIFICATION TO BE ADDED TO THE NOTICE OF ELECTION.

See p. 76.

THIRD SCHEDULE.

MAXIMUM AMOUNT OF SECURITY WHICH MAY BE REQUIRED BY A RETURNING OFFICER.

See p. 67.

(*a*) Continued until the 31st December, 1886, by the Expiring Laws Continuance Act, 1885.

(*b*) See the Act for Scotland, 41 & 42 Vict. c. 41.

41 & 42 VICT. CAP. 41.

Appndx.

An Act to enable Returning Officers at Parliamentary Elections in Scotland to require Security for their Expenses; and otherwise to amend the Law of Scotland relating to such Expenses.

[8th August, 1878.]

1. [Similar to sections 1, 10, and 11 of 38 & 39 Vict. c. 84.]

2. [Similar to sections 1, 10, and 11 of 38 & 39 Vict. c. 84.]

3. [Similar to section 3 of 38 & 39 Vict. c. 84.]

4. [Similar to section 6 of 38 & 39 Vict. c. 84.]

5. [Similar to section 8 of 38 & 39 Vict. c. 84.]

6. [Similar to section 9 of 38 & 39 Vict. c. 84.]

SCHEDULE.

MAXIMUM AMOUNT of SECURITY which may be required
by a RETURNING OFFICER.

[Similar to the Third Schedule of 38 & 39 Vict. c. 84,
printed at p. 67.]

46 & 47 VICT. CAP. 51.

An Act for the better prevention of Corrupt and Illegal Practices at Parliamentary Elections.

[25th August, 1883.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

Appndx.*Corrupt Practices.*

What is
treating.

1. Whereas under section four of the Corrupt Practices Prevention Act, 1854, persons other than candidates at Parliamentary elections are not liable to any punishment for treating, and it is expedient to make such persons liable; be it therefore enacted in substitution for the said section four as follows :—

- (1.) Any person who corruptly by himself or by any other person, either before, during, or after an election, directly or indirectly gives or provides, or pays wholly or in part the expense of giving or providing, any meat, drink, entertainment or provision to or for any person, for the purpose of corruptly influencing that person or any other person to give or refrain from giving his vote at the election, or on account of such person or any other person having voted or refrained from voting, or being about to vote or refrain from voting at such election, shall be guilty of treating.
- (2.) And every elector who corruptly accepts or takes any such meat, drink, entertainment or provision shall also be guilty of treating.

What is
undue in-
fluence.

2. Every person who shall, directly or indirectly, by himself or by any other person on his behalf, make use of or threaten to make use of any force, violence, or restraint, or inflict or threaten to inflict, by himself or by any other person, any temporal or spiritual injury, damage, harm, or loss upon or against any person in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at any election, or who shall by abduction, duress, or any fraudulent device or contrivance impede or prevent the free exercise of the franchise of any elector, or shall thereby compel, induce, or prevail upon any elector either to give or to refrain from giving his vote at any election, shall be guilty of undue influence.

What is
corrupt
practice.

3. The expression "corrupt practice" as used in this Act means any of the following offences; namely, treating and undue influence, as defined by this Act, and bribery and personation, as defined by the enactments set forth in Part III. of the Third Schedule to this Act, and aiding, abetting,

counselling, and procuring the commission of the offence of personation, and every offence which is a corrupt practice within the meaning of this Act shall be a corrupt practice within the meaning of the Parliamentary Elections Act, 1868.

Appndx.

31 & 32 Vict.
c. 125.

4. Where upon the trial of an election petition respecting an election for a county or borough the election court, by the report made to the Speaker in pursuance of section eleven of the Parliamentary Elections Act, 1868, reports that any corrupt practice other than treating or undue influence has been proved to have been committed in reference to such election by or with the knowledge and consent of any candidate at such election, or that the offence of treating or undue influence has been proved to have been committed in reference to such election by any candidate at such election, that candidate shall not be capable of ever being elected to or sitting in the House of Commons for the said county or borough, and if he has been elected, his election shall be void; and he shall further be subject to the same incapacities as if at the date of the said report he had been convicted on an indictment of a corrupt practice.

Punishment
of candidate
found, on
election
petition,
guilty per-
sonally of
corrupt
practices.

31 & 32 Vict.
c. 125.

5. Upon the trial of an election petition respecting an election for a county or borough, in which a charge is made of any corrupt practice having been committed in reference to such election, the election court shall report in writing to the Speaker whether any of the candidates at such election has been guilty by his agents of any corrupt practice in reference to such election; and if the report is that any candidate at such election has been guilty by his agents of any corrupt practice in reference to such election that candidate shall not be capable of being elected to or sitting in the House of Commons for such county or borough for seven years after the date of the report, and if he has been elected his election shall be void.

Punishment
of candidate
found, on
election
petition,
guilty by
agents of
corrupt
practices.

6. (1.) A person who commits any corrupt practice other than personation, or aiding, abetting, counselling, or procuring the commission of the offence of personation, shall be guilty of a misdemeanor, and on conviction on indictment shall be liable to be imprisoned, with or without hard labour, for a term not exceeding one year, or to be fined any sum not exceeding two hundred pounds.

Punishment
of person
convicted
on indict-
ment of cor-
rupt prac-
tices.

(2.) A person who commits the offence of personation, or of aiding, abetting, counselling, or procuring the commission

Appndx. of that offence, shall be guilty of felony, and any person convicted thereof on indictment shall be punished by imprisonment for a term not exceeding two years, together with hard labour.

(3.) A person who is convicted on indictment of any corrupt practice shall (in addition to any punishment as above provided) be not capable during a period of seven years from the date of his conviction :

(a.) of being registered as an elector or voting at any election in the United Kingdom, whether it be a parliamentary election or an election for any public office within the meaning of this Act ; or

(b.) of holding any public or judicial office within the meaning of this Act, and if he holds any such office the office shall be vacated.

(4.) Any person so convicted of a corrupt practice in reference to any election shall also be incapable of being elected to and of sitting in the House of Commons during the seven years next after the date of his conviction, and if at that date he has been elected to the House of Commons his election shall be vacated from the time of such conviction.

Illegal Practices.

Certain expenditure to be illegal practice.

7. (1.) No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at any election, be made—

(a.) on account of the conveyance of electors to or from the poll, whether for the hiring of horses or carriages, or for railway fares, or otherwise ; or

(b.) to an elector on account of the use of any house, land, building, or premises for the exhibition of any address, bill, or notice, or on account of the exhibition of any address, bill, or notice ; or

(c.) on account of any committee room in excess of the number allowed by the First Schedule to this Act.

(2.) Subject to such exception as may be allowed in pursuance of this Act, if any payment or contract for payment is knowingly made in contravention of this section either before, during, or after an election, the person making such payment or contract shall be guilty of an illegal practice, and any person receiving such payment or being a party to any such contract, knowing the same to be in contravention of this Act, shall also be guilty of an illegal practice.

(3.) Provided that where it is the ordinary business of an elector as an advertising agent to exhibit for payment bills and advertisements, a payment to or contract with such elector, if made in the ordinary course of business, shall not be deemed to be an illegal practice within the meaning of this section. **Appndx.**

8. (1.) Subject to such exception as may be allowed in pursuance of this Act, no sum shall be paid and no expense shall be incurred by a candidate at an election or his election agent, whether before, during, or after an election, on account of or in respect of the conduct or management of such election, in excess of any maximum amount in that behalf specified in the First Schedule to this Act. Expense in excess of maximum to be illegal practice.

(2.) Any candidate or election agent who knowingly acts in contravention of this section shall be guilty of an illegal practice.

9. (1.) If any person votes, or induces or procures any person to vote at any election, knowing that he or such person is prohibited, whether by this or any other Act, from voting at such election, he shall be guilty of an illegal practice. Voting by prohibited persons and publishing of false statements of withdrawal to be illegal.

(2.) Any person who before or during an election knowingly publishes a false statement of the withdrawal of a candidate at such election, for the purpose of promoting or procuring the election of another candidate, shall be guilty of an illegal practice.

(3.) Provided that a candidate shall not be liable, nor shall his election be avoided, for any illegal practice under this section committed by his agent other than his election agent.

10. A person guilty of an illegal practice, whether under the foregoing sections or under the provisions hereinafter contained in this Act, shall on summary conviction be liable to a fine not exceeding one hundred pounds, and be incapable during a period of five years from the date of his conviction of being registered as an elector or voting at any election (whether it be a parliamentary election or an election for a public office within the meaning of this Act) held for or within the county or borough in which the illegal practice has been committed. Punishment on conviction of illegal practice.

11. Whereas by sub-section fourteen of section eleven of the Parliamentary Elections Act, 1868, it is provided that Report of election court

Appndx.

respecting
illegal
practice,
and punish-
ment of
candidate
found guilty
by such
report.

31 & 32 Vict.
c. 125.

where a charge is made in an election petition of any corrupt practice having been committed at the election to which the petition refers, the judge shall report in writing to the Speaker as follows:—

- (a.) “ Whether any corrupt practice has or has not been
“ been proved to have been committed by or with
“ the knowledge and consent of any candidate at
“ such election, and the nature of such corrupt
“ practice ;
- (b.) “ The names of all persons, if any, who have been
“ proved at the trial to have been guilty of any
“ corrupt practice ;
- (c.) “ Whether corrupt practices have, or whether there is
“ reason to believe corrupt practices have, exten-
“ sively prevailed at the election to which the
“ petition relates : ”

And whereas it is expedient to extend the said sub-section to illegal practices :

Be it therefore enacted as follows:—

31 & 32 Vict.
c. 125.

Sub-section fourteen of section eleven of the Parliamentary Elections Act, 1868, shall apply as if that sub-section were herein re-enacted with the substitution of illegal practice within the meaning of this Act for corrupt practice ; and upon the trial of an election petition respecting an election for a county or borough, the election court shall report in writing to the Speaker the particulars required by the said sub-section as herein re-enacted, and shall also report whether any candidate at such election has been guilty by his agents of any illegal practice within the meaning of this Act in reference to such election, and the following consequences shall ensue upon the report by the election court to the Speaker; (that is to say,)

- (a.) If the report is that any illegal practice has been proved to have been committed in reference to such election by or with the knowledge and consent of any candidate at such election, that candidate shall not be capable of being elected to or sitting in the House of Commons for the said county or borough for seven years next after the date of the report, and if he has been elected his election shall be void ; and he shall further be subject to the same incapacities as if at the date of the report he had been convicted of such illegal practice ; and
- (b.) If the report is that a candidate at such election has been guilty by his agents of any illegal practice in

reference to such election, that candidate shall not be capable of being elected to or sitting in the House of Commons for the said county or borough during the Parliament for which the election was held, and if he has been elected, his election shall be void. **Appndx.**

* * * * *

Illegal Payment, Employment, and Hiring.

13. Where a person knowingly provides money for any payment which is contrary to the provisions of this Act, or for any expenses incurred in excess of any maximum amount allowed by this Act, or for replacing any money expended in any such payment or expenses, except where the same may have been previously allowed in pursuance of this Act to be an exception, such person shall be guilty of illegal payment. Providing of money for illegal practice or payment to be illegal payment.

14. (1.) A person shall not let, lend, or employ for the purpose of the conveyance of electors to or from the poll, any public stage or hackney carriage, or any horse or other animal kept or used for drawing the same, or any carriage, horse, or other animal which he keeps or uses for the purpose of letting out for hire, and if he lets, lends, or employs such carriage, horse, or other animal, knowing that it is intended to be used for the purpose of the conveyance of electors to or from the poll, he shall be guilty of an illegal hiring. Employment of hackney carriages, or of carriages and horses kept for hire.

(2.) A person shall not hire, borrow, or use for the purpose of the conveyance of electors to or from the poll any carriage, horse, or other animal which he knows the owner thereof is prohibited by this section to let, lend, or employ for that purpose, and if he does so he shall be guilty of an illegal hiring.

(3.) Nothing in this Act shall prevent a carriage, horse, or other animal being let to or hired, employed, or used by an elector, or several electors at their joint cost, for the purpose of being conveyed to or from the poll.

(4.) No person shall be liable to pay any duty or to take out a license for any carriage by reason only of such carriage being used without payment or promise of payment for the conveyance of electors to or from the poll at an election.

15. Any person who corruptly induces or procures any other person to withdraw from being a candidate at an election, in consideration of any payment or promise of pay- Corrupt withdrawal from a candidature.

Appndx. — ment, shall be guilty of illegal payment, and any person withdrawing, in pursuance of such inducement or procurement, shall also be guilty of illegal payment.

Certain expenditure to be illegal payment. 16. (1.) No payment or contract for payment shall, for the purpose of promoting or procuring the election of a candidate at any election, be made on account of bands of music, torches, flags, banners, cockades, ribbons, or other marks of distinction.

(2.) Subject to such exception as may be allowed in pursuance of this Act, if any payment or contract for payment is made in contravention of this section, either before, during, or after an election, the person making such payment shall be guilty of illegal payment, and any person being a party to any such contract or receiving such payment shall also be guilty of illegal payment if he knew that the same was made contrary to law.

Certain employment to be illegal. 17. (1.) No person shall, for the purpose of promoting or procuring the election of a candidate at any election, be engaged or employed for payment or promise of payment for any purpose or in any capacity whatever, except for any purposes or capacities mentioned in the first or second parts of the First Schedule to this Act, or except so far as payment is authorized by the first or second parts of the First Schedule to this Act.

(2.) Subject to such exception as may be allowed in pursuance of this Act, if any person is engaged or employed in contravention of this section, either before, during, or after an election, the person engaging or employing him shall be guilty of illegal employment, and the person so engaged or employed shall also be guilty of illegal employment if he knew that he was engaged or employed contrary to law.

Name and address of printer on placards. 18. Every bill, placard, or poster having reference to an election shall bear upon the face thereof the name and address of the printer and publisher thereof; and any person printing, publishing, or posting, or causing to be printed, published, or posted, any such bill, placard, or poster as aforesaid, which fails to bear upon the face thereof the name and address of the printer and publisher, shall, if he is the candidate, or the election agent of the candidate, be guilty of an illegal practice, and if he is not the candidate, or the election agent of a candidate, shall be liable on summary conviction to a fine not exceeding one hundred pounds.

19. The provisions of this Act prohibiting certain payments and contracts for payments, and the payment of any sum, and the incurring of any expense in excess of a certain maximum, shall not affect the right of any creditor, who, when the contract was made or the expense was incurred, was ignorant of the same being in contravention of this Act.

Appndx.

Saving for creditors.

20. (a.) Any premises on which the sale by wholesale or retail of any intoxicating liquor is authorized by a license (whether the license be for consumption on or off the premises), or

Use of committee room in house for sale of intoxicating liquor or refreshment or in elementary school, to be illegal hiring.

(b.) Any premises where any intoxicating liquor is sold, or is supplied to members of a club, society, or association other than a permanent political club, or

(c.) Any premises whereon refreshment of any kind, whether food or drink, is ordinarily sold for consumption on the premises, or

(d.) The premises of any public elementary school in receipt of an annual parliamentary grant, or any part of any such premises,

shall not be used as a committee room for the purpose of promoting or procuring the election of a candidate at an election, and if any person hires or uses any such premises or any part thereof for a committee room he shall be guilty of illegal hiring, and the person letting such premises or part, if he knew it was intended to use the same as a committee room, shall also be guilty of illegal hiring :

Provided that nothing in this section shall apply to any part of such premises which is ordinarily let for the purpose of chambers or offices or the holding of public meetings or of arbitrations, if such part has a separate entrance and no direct communication with any part of the premises on which any intoxicating liquor or refreshment is sold or supplied as aforesaid.

21. (1.) A person guilty of an offence of illegal payment, employment or hiring, shall, on summary conviction, be liable to a fine not exceeding one hundred pounds.

Punishment of illegal payment, employment, or hiring.

(2.) A candidate or an election agent of a candidate who is personally guilty of an offence of illegal payment, employment, or hiring shall be guilty of an illegal practice.

Appndx.*Excuse and Exception for Corrupt or Illegal Practice or
Illegal Payment, Employment, or Hiring.*

Report
exonerating
candidate in
certain cases
of corrupt
and illegal
practice by
agents.

22. Where, upon the trial of an election petition respecting an election for a county or borough, the election court report that a candidate at such election has been guilty by his agents of the offence of treating and undue influence, and illegal practice, or of any of such offences, in reference to such election, and the election court further report that the candidate has proved to the court—

- (a.) That no corrupt or illegal practice was committed at such election by the candidate or his election agent, and the offences mentioned in the said report were committed contrary to the orders and without the sanction or connivance of such candidate or his election agent ; and
- (b.) That such candidate and his election agent took all reasonable means for preventing the commission of corrupt and illegal practices at such election ; and
- (c.) That the offences mentioned in the said report were of a trivial, unimportant, and limited character ; and
- (d.) That in all other respects the election was free from any corrupt or illegal practice on the part of such candidate and of his agents ;

then the election of such candidate shall not, by reason of the offences mentioned in such report, be void, nor shall the candidate be subject to any incapacity under this Act.

Power of
High Court
and election
court to
except inno-
cent act
from being
illegal
practice, &c.

23. Where, on application made, it is shown to the High Court or to an election court by such evidence as seems to the Court sufficient—

- (a.) That any act or omission of a candidate at any election, or of his election agent or of any other agent or person, would, by reason of being a payment, engagement, employment, or contract in contravention of this Act, or being the payment of a sum or the incurring of expense in excess of any maximum amount allowed by this Act, or of otherwise being in contravention of any of the provisions of this Act, be but for this section an illegal practice, payment, employment, or hiring ; and

- (b.) That such act or omission arose from inadvertence or from accidental miscalculation, or from some other reasonable cause of a like nature, and in any case did not arise from any want of good faith ; and
- (c.) That such notice of the application has been given in the county or borough for which the election was held as to the court seems fit ;

and under the circumstances it seems to the court to be just that the candidate, and the said election and other agent and person, or any of them, should not be subject to any of the consequences under this Act of the said act or omission, the court may make an order allowing such act or omission to be an exception from the provisions of this Act, which would otherwise make the same an illegal practice, payment, employment, or hiring, and thereupon such candidate, agent, or person shall not be subject to any of the consequences under this Act of the said act or omission.

Election Expenses.

24. (1.) On or before the day of nomination at an election, a person shall be named by or on behalf of each candidate as his agent for such election (in this Act referred to as the election agent). Nomination
of election
agent.

(2.) A candidate may name himself as election agent, and thereupon shall, so far as circumstances admit, be subject to the provisions of this Act both as a candidate and as an election agent, and any reference in this Act to an election agent shall be construed to refer to the candidate acting in his capacity of election agent.

(3.) On or before the day of nomination the name and address of the election agent of each candidate shall be declared in writing by the candidate or some other person on his behalf to the returning officer, and the returning officer shall forthwith give public notice of the name and address of every election agent so declared.

(4.) One election agent only shall be appointed for each candidate, but the appointment, whether the election agent appointed be the candidate himself or not, may be revoked, and in the event of such revocation or his death, whether such event is before, during, or after the election, then forthwith another election agent shall be appointed, and his name and address declared in writing to the returning officer, who shall forthwith give public notice of the same.

Appndx.

Nomination
of deputy
election
agent as
sub-agent.

25. (1.) In the case of the elections specified in that behalf in the First Schedule to this Act an election agent of a candidate may appoint the number of deputies therein mentioned (which deputies are in this Act referred to as sub-agents), to act within different polling districts.

(2.) As regards matters in a polling district the election agent may act by the sub-agent for that district, and anything done for the purposes of this Act by or to the sub-agent in his district shall be deemed to be done by or to the election agent, and any act or default of a sub-agent which, if he were the election agent, would be an illegal practice or other offence against this Act, shall be an illegal practice and offence against this Act committed by the sub-agent, and the sub-agent shall be liable to punishment accordingly; and the candidate shall suffer the like incapacity as if the said act or default had been the act or default of the election agent.

(3.) One clear day before the polling the election agent shall declare in writing the name and address of every sub-agent to the returning officer, and the returning officer shall forthwith give public notice of the name and address of every sub-agent so declared.

(4.) The appointment of a sub-agent shall not be vacated by the election agent who appointed him ceasing to be election agent, but may be revoked by the election agent for the time being of the candidate, and in the event of such revocation or of the death of a sub-agent another sub-agent may be appointed, and his name and address shall be forthwith declared in writing to the returning officer, who shall forthwith give public notice of the same.

Office of
election
agent and
sub-agent.

26. (1.) An election agent at an election for a county or borough shall have within the county or borough, or within any county of a city or town adjoining thereto, and a sub-agent shall have within his district, or within any county of a city or town adjoining thereto, an office or place to which all claims, notices, writs, summons, and documents may be sent, and the address of such office or place shall be declared at the same time as the appointment of the said agent to the returning officer, and shall be stated in the public notice of the name of the agent.

(2.) Any claim, notice, writ, summons, or document delivered at such office or place and addressed to the election agent or sub-agent, as the case may be, shall be deemed to have been served on him, and every such agent may in respect of any matter connected with the election in which he is acting be sued in any court having jurisdiction in the county or borough in which the said office or place is situate.

27. (1.) The election agent of a candidate by himself or by his sub-agent shall appoint every polling agent, clerk, and messenger employed for payment on behalf of the candidate at an election, and hire every committee room hired on behalf of the candidate.

Appndx.

Making of contracts through election agent.

(2.) A contract whereby any expenses are incurred on account of or in respect of the conduct or management of an election shall not be enforceable against a candidate at such election unless made by the candidate himself or by his election agent, either by himself or by his sub-agent; provided that the inability under this section to enforce such contract against the candidate shall not relieve the candidate from the consequences of any corrupt or illegal practice having been committed by his agent.

28. (1.) Except as permitted by or in pursuance of this Act, no payment and no advance or deposit shall be made by a candidate at any election or by any agent on behalf of the candidate or by any other person at any time, whether before, during, or after such election, in respect of any expenses incurred on account of, or in respect of the conduct or management of such election, otherwise than by or through the election agent of the candidate, whether acting in person or by a sub-agent; and all money provided by any person other than the candidate for any expenses incurred on account of or in respect of the conduct or management of the election, whether as gift, loan, advance, or deposit, shall be paid to the candidate or his election agent, and not otherwise;

Payment of expenses through election agent.

Provided that this section shall not be deemed to apply to a tender of security to or any payment by the returning officer, or to any sum disbursed by any person out of his own money for any small expense legally incurred by himself, if such sum is not repaid to him.

(2.) A person who makes any payment, advance, or deposit in contravention of this section, or pays in contravention of this section any money so provided as aforesaid, shall be guilty of an illegal practice.

29. (1.) Every payment made by an election agent, whether by himself or a sub-agent, in respect of any expenses incurred on account of or in respect of the conduct or management of an election, shall, except where less than forty shillings, be vouched for by a bill stating the particulars, and by a receipt.

Period for sending in claims and making payments for election expenses.

(2.) Every claim against a candidate at an election or his election agent in respect of any expenses incurred on account of or in respect of the conduct or management of such elec-

Appndx.

tion which is not sent into the election agent within the time limited by this Act shall be barred and shall not be paid; and, subject to such exception as may be allowed in pursuance of this Act, an election agent who pays a claim in contravention of this enactment shall be guilty of an illegal practice.

(3.) Except as by this Act permitted, the time limited by this Act for sending in claims shall be fourteen days after the day on which the candidates returned are declared elected.

(4.) All expenses incurred by or on behalf of a candidate at an election, which are incurred on account of or in respect of the conduct or management of such election, shall be paid within the time limited by this Act and not otherwise; and, subject to such exception as may be allowed in pursuance of this Act, an election agent who makes a payment in contravention of this provision shall be guilty of an illegal practice.

(5.) Except as by this Act permitted, the time limited by this Act for the payment of such expenses as aforesaid shall be twenty-eight days after the day on which the candidates returned are declared elected.

(6.) Where the election court reports that it has been proved to such court by a candidate that any payment made by an election agent in contravention of this section was made without the sanction or connivance of such candidate, the election of such candidate shall not be void, nor shall he be subject to any incapacity under this Act by reason only of such payment having been made in contravention of this section.

(7.) If the election agent in the case of any claim sent in to him within the time limited by this Act disputes it, or refuses or fails to pay it within the said period of twenty-eight days, such claim shall be deemed to be a disputed claim.

(8.) The claimant may, if he thinks fit, bring an action for a disputed claim in any competent court; and any sum paid by the candidate or his agent in pursuance of the judgment or order of such court shall be deemed to be paid within the time limited by this Act, and to be an exception from the provisions of this Act, requiring claims to be paid by the election agent.

(9.) On cause shown to the satisfaction of the High Court, such court on application by the claimant or by the candidate or his election agent may by order give leave for the payment by a candidate or his election agent of a disputed claim, or of a claim for any such expenses as aforesaid, although sent in after the time in this section mentioned for sending in claims, or although the same was sent into the candidate and not to the election agent.

(10.) Any sum specified in the order of leave may be paid by the candidate or his election agent, and when paid in pursuance of such leave, shall be deemed to be paid within the time limited by this Act. **Appndx.**

30. If any action is brought in any competent court to recover a disputed claim against a candidate at an election, or his election agent, in respect of any expenses incurred on account or in respect of the conduct or management of such election, and the defendant admits his liability, but disputes the amount of the claim, the said amount shall, unless the court, on the application of the plaintiff in the action, otherwise directs, be forthwith referred for taxation to the master, official referee, registrar or other proper officer of the court, and the amount found due on such taxation shall be the amount to be recovered in such action in respect of such claim. **Reference to taxation of claim against candidates.**

31. (1.) The candidate at an election may pay any personal expenses incurred by him on account of or in connection with or incidental to such election to an amount not exceeding one hundred pounds, but any further personal expenses so incurred by him shall be paid by his election agent. **Personal expenses of candidate and petty expenses.**

(2.) The candidate shall send to the election agent within the time limited by this Act for sending in claims a written statement of the amount of personal expenses paid as aforesaid by such candidate.

(3.) Any person may, if so authorized in writing by the election agent of the candidate, pay any necessary expenses for stationery, postage, telegrams, and other petty expenses, to a total amount not exceeding that named in the authority, but any excess above the total amount so named shall be paid by the election agent.

(4.) A statement of the particulars of payments made by any person so authorized shall be sent to the election agent within the time limited by this Act for the sending in of claims, and shall be vouched for by a bill containing the receipt of that person.

32. (1.) So far as circumstances admit, this Act shall apply to a claim for his remuneration by an election agent and to the payment thereof in like manner as if he were any other creditor, and if any difference arises respecting the amount of such claim the claim shall be a disputed claim within the meaning of this Act, and be dealt with accordingly. **Remuneration of election agent and returning officer's expenses.**

(2.) The account of the charges claimed by the returning

Appndx. officer in the case of a candidate and transmitted in pursuance of section four of the Parliamentary Elections (Returning Officers) Act, 1875, shall be transmitted within the time specified in the said section to the election agent of the candidate, and need not be transmitted to the candidate.

Return and
declaration
respecting
election
expenses.

33. (1.) Within thirty-five days after the day on which the candidates returned at an election are declared elected, the election agent of every candidate at that election shall transmit to the returning officer a true return (in this Act referred to as a return respecting election expenses), in the form set forth in the Second Schedule to this Act or to the like effect, containing, as respects that candidate,—

- (a.) A statement of all payments made by the election agent, together with all the bills and receipts (which bills and receipts are in this Act included in the expression "return respecting election expenses");
- (b.) A statement of the amount of personal expenses, if any, paid by the candidate;
- (c.) A statement of the sums paid to the returning officer for his charges, or, if the amount is in dispute, of the sum claimed and the amount disputed;
- (d.) A statement of all other disputed claims of which the election agent is aware;
- (e.) A statement of all the unpaid claims, if any, of which the election agent is aware, in respect of which application has been or is about to be made to the High Court;
- (f.) A statement of all money, securities, and equivalent of money received by the election agent from the candidate or any other person for the purpose of expenses incurred or to be incurred on account of or in respect of the conduct or management of the election, with a statement of the name of every person from whom the same may have been received.

(2.) The return so transmitted to the returning officer shall be accompanied by a declaration made by the election agent before a justice of the peace in the form in the Second Schedule to this Act (which declaration is in this Act referred to as a declaration respecting election expenses).

(3.) Where the candidate has named himself as his election agent, a statement of all money, securities, and equivalent of money paid by the candidate shall be substituted in the

return required by this section to be transmitted by the election agent for the like statement of money, securities, and equivalent of money received by the election agent from the candidate; and the declaration by an election agent respecting election expenses need not be made, and the declaration by the candidate respecting election expenses shall be modified as specified in the Second Schedule to this Act. Appndx.

(4.) At the same time that the agent transmits the said return, or within seven days afterwards, the candidate shall transmit or cause to be transmitted to the returning officer a declaration made by him before a justice of the peace, in the form in the first part of the Second Schedule to this Act (which declaration is in this Act referred to as a declaration respecting election expenses).

(5.) If in the case of an election for any county or borough, the said return and declarations are not transmitted before the expiration of the time limited for the purpose, the candidate shall not, after the expiration of such time, sit or vote in House of Commons as member for that county or borough until either such return and declarations have been transmitted, or until the date of the allowance of such an authorized excuse for the failure to transmit the same, as in this Act mentioned, and if he sits or votes in contravention of this enactment he shall forfeit one hundred pounds for every day on which he so sits or votes to any person who sues for the same.

(6.) If without such authorized excuse as in this Act mentioned, a candidate or an election agent fails to comply with the requirements of this section he shall be guilty of an illegal practice.

(7.) If any candidate or election agent knowingly makes the declaration required by this section falsely, he shall be guilty of an offence, and on conviction thereof on indictment shall be liable to the punishment for wilful and corrupt perjury; such offence shall also be deemed to be a corrupt practice within the meaning of this Act.

(8.) Where the candidate is out of the United Kingdom at the time when the return is so transmitted to the returning officer, the declaration required by this section may be made by him within fourteen days after his return to the United Kingdom, and in that case shall be forthwith transmitted to the returning officer, but the delay hereby authorized in making such declaration shall not exonerate the election agent from complying with the provisions of this Act as to the return and declaration respecting election expenses.

Appndx.

(9.) Where, after the date at which the return respecting election expenses is transmitted, leave is given by the High Court for any claims to be paid, the candidate or his election agent shall, within seven days after the payment thereof, transmit to the returning officer a return of the sums paid in pursuance of such leave accompanied by a copy of the order of the court giving the leave, and in default he shall be deemed to have failed to comply with the requirements of this section without such authorized excuse as in this Act mentioned.

Authorized
excuse for
non-com-
pliance with
provisions as
to return
and declara-
tion respect-
ing election
expenses.

34. (1.) Where the return and declarations respecting election expenses of a candidate at an election for a county or borough have not been transmitted as required by this Act, or being transmitted contain some error or false statement, then—

(a.) if the candidate applies to the High Court or an election court and shows that the failure to transmit such return and declarations, or any of them, or any part thereof, or any error or false statement therein, has arisen by reason of his illness, or of the absence, death, illness, or misconduct of his election agent or sub-agent or of any other clerk or officer of such agent, or by reason of inadvertence or of any reasonable cause of a like nature, and not by reason of any want of good faith on the part of the applicant, or

(b.) if the election agent of the candidate applies to the High Court or an election court and shows that the failure to transmit the return and declarations which he was required to transmit, or any part thereof, or any error or false statement therein, arose by reason of his illness or of the death or illness of any prior election agent of the candidate, or of the absence, death, illness, or misconduct of any sub-agent, clerk or officer of an election agent of the candidate, or by reason of inadvertence or of any reasonable cause of a like nature, and not by reason of any want of good faith on the part of the applicant,

the court may, after such notice of the application in the said county or borough, and on production of such evidence of the grounds stated in the application, and of the good faith of the application, and otherwise, as to the court seems fit, make such order for allowing an authorized excuse for the failure to transmit such return and declaration, or for an

error or false statement in such return and declaration, as to the court seems just. **Appndx.**

(2.) Where it appears to the court that any person being or having been election agent or sub-agent has refused or failed to make such return or to supply such particulars as will enable the candidate and his election agent respectively to comply with the provisions of this Act as to the return and declaration respecting election expenses, the court before making an order allowing the excuse as in this section mentioned shall order such person to attend before the court, and on his attendance shall, unless he shows cause to the contrary, order him to make the return and declaration, or to deliver a statement of the particulars required to be contained in the return, as to the court seem just, and to make or deliver the same within such time and to such person and in such manner as the court may direct, or may order him to be examined with respect to such particulars, and may in default of compliance with any such order order him to pay a fine not exceeding five hundred pounds.

(3.) The order may make the allowance conditional upon the making of the return and declaration in a modified form or within an extended time, and upon the compliance with such other terms as to the court seem best calculated for carrying into effect the objects of this Act; and an order allowing an authorized excuse shall relieve the applicant for the order from any liability or consequences under this Act in respect of the matter excused by the order; and where it is proved by the candidate to the court that any act or omission of the election agent in relation to the return and declaration respecting election expenses was without the sanction or connivance of the candidate, and that the candidate took all reasonable means for preventing such act or omission, the court shall relieve the candidate from the consequences of such act or omission on the part of his election agent.

(4.) The date of the order, or if conditions and terms are to be complied with, the date at which the applicant fully complies with them, is referred to in this Act as the date of the allowance of the excuse.

35. (1.) The returning officer at an election within ten days after he receives from the election agent of a candidate a return respecting election expenses shall publish a summary of the return in not less than two newspapers circulating in the county or borough for which the election was held, accompanied by a notice of the time and place at which the return and declarations (including the accompanying docu-

Publication
of summary
of return of
election
expenses.

Appndx.

38 & 39 Vict.
c. 84.

ments) can be inspected, and may charge the candidate in respect of such publication, and the amount of such charge shall be the sum allowed by the Parliamentary Elections (Returning Officers) Act, 1875.

(2.) The return and declarations (including the accompanying documents) sent to the returning officer by an election agent shall be kept at the office of the returning officer, or some convenient place appointed by him, and shall at all reasonable times during two years next after they are received by the returning officer be open to inspection by any person on payment of a fee of one shilling, and the returning officer shall on demand furnish copies thereof or any part thereof at the price of twopence for every seventy-two words. After the expiration of the said two years the returning officer may cause the said return and declarations (including the accompanying documents), to be destroyed, or, if the candidate or his election agent so require, shall return the same to the candidate.

Disqualification of Electors.

Prohibition
of persons
guilty of
corrupt
or illegal
practices,
&c., from
voting.

Prohibition
of disquali-
fied persons
from voting,

35 & 36 Vict.
c. 50.

45 & 46 Vict.
c. 50.

36. Every person guilty of a corrupt or illegal practice or of illegal employment, payment, or hiring at an election is prohibited from voting at such election, and if any such person votes his vote shall be void.

37. Every person who, in consequence of conviction or of the report of any election court or election commissioners under this Act, or under the Corrupt Practices (Municipal Elections) Act, 1872, or under Part IV. of the Municipal Corporations Act, 1882, or under any other Act for the time being in force relating to corrupt practices at an election for any public office, has become incapable of voting at any election, whether a parliamentary election or an election to any public office, is prohibited from voting at any such election, and his vote shall be void.

Proceedings on Election Petition.

Time for
presentation
of election
petitions
alleging
illegal
practices.
31 & 32 Vict.
c. 125.

40. (1.) Where an election petition questions the return or the election upon an allegation of an illegal practice, then notwithstanding anything in the Parliamentary Elections Act, 1868, such petition, so far as respects such illegal practice, may be presented within the time following; (that is to say),

(a.) At any time before the expiration of fourteen days after the day on which the returning officer receives the return and declarations respecting election expenses by the member to whose election the petition relates and his election agent. **Appndx.**

(b.) If the election petition specifically alleges a payment of money, or some other act to have been made or done since the said day by the member or an agent of the member, or with the privity of the member or his election agent in pursuance or in furtherance of the illegal practice alleged in the petition, the petition may be presented at any time within twenty-eight days after the date of such payment or other act.

(2.) Any election petition presented within the time limited by the Parliamentary Elections Act, 1868, may for the purpose of questioning the return or the election upon an allegation of an illegal practice be amended with the leave of the High Court within the time within which a petition questioning the return upon the allegation of that illegal practice can under this section be presented. **31 & 32 Vict. c. 125.**

(3.) This section shall apply in the case of an offence relating to the return and declarations respecting election expenses in like manner as if it were an illegal practice, and also shall apply notwithstanding that the act constituting the alleged illegal practice amounted to a corrupt practice.

(4.) For the purposes of this section—

(a.) Where the return and declarations are received on different days, the day on which the last of them is received, and

(b.) Where there is an authorized excuse for failing to make and transmit the return and declarations respecting election expenses, the date of the allowance of the excuse, or if there was a failure as regards two or more of them, and the excuse was allowed at different times, the date of the allowance of the last excuse,

shall be substituted for the day on which the return and declarations are received by the returning officer.

(5.) For the purposes of this section, time shall be reckoned in like manner as it is reckoned for the purposes of the Parliamentary Elections Act, 1868.

48. Where the nature of a county is such that any electors residing therein are unable at an election for such county to reach their polling place without crossing the sea or a branch **Conveyance of voters by sea in certain cases.**

Appndx. or arm thereof, this Act shall not prevent the provision of means for conveying such electors by sea to their polling place, and the amount of payment for such means of conveyance may be in addition to the maximum amount of expenses allowed by this Act.

Breach of
duty by
officer.
35 & 36 Vict.
c. 33.

61. (1.) Section eleven of the Ballot Act, 1872, shall apply to a returning officer or presiding officer or clerk who is guilty of any wilful misfeasance or wilful act or omission in contravention of this Act in like manner as if the same were in contravention of the Ballot Act, 1872.

Publication
and service
of notices.
35 & 36 Vict.
c. 33.

62. (1.) Any public notice required to be given by the returning officer under this Act shall be given in the manner in which he is directed by the Ballot Act, 1872, to give a public notice.

Definition
of candi-
date, and
saving for
persons
nominated
without
consent.

63. (1.) In the Corrupt Practices Prevention Acts, as amended by this Act, the expression "candidate at an election" and the expression "candidate" respectively mean, unless the context otherwise requires, any person elected to serve in Parliament at such election, and any person who is nominated as a candidate at such election, or is declared by himself or by others to be a candidate, on or after the day of the issue of the writ for such election, or after the dissolution or vacancy in consequence of which such writ has been issued ;

(2.) Provided that where a person has been nominated as a candidate or declared to be a candidate by others, then—

(a.) If he was so nominated or declared without his consent, nothing in this Act shall be construed to impose any liability on such person, unless he has afterwards given his assent to such nomination or declaration or has been elected ; and

(b.) If he was so nominated or declared, either without his consent or in his absence and he takes no part in the election, he may, if he thinks fit, make the declaration respecting election expenses contained in the second part of the Second Schedule to this Act, and the election agent shall, so far as circumstances admit, comply with the provisions of this Act with respect to expenses incurred on account of or in respect of the conduct or management of the election in like manner as if the candidate had been nominated or declared with his consent.

64. In this Act, unless the context otherwise requires—

The expression “election” means the election of a member or members to serve in Parliament :

The expression “polling agent” means an agent of the candidate appointed to attend at a polling station in pursuance of the Ballot Act, 1872, or of the Acts therein referred to or amending the same :

The expression “committee room” shall not include any house or room occupied by a candidate at an election as a dwelling, by reason only of the candidate there transacting business with his agents in relation to such election ; nor shall any room or building be deemed to be a committee room for the purposes of this Act by reason only of the candidate or any agent of the candidate addressing therein electors, committeemen, or others :

The expression “personal expenses” as used with respect to the expenditure of any candidate in relation to any election includes the reasonable travelling expenses of such candidate, and the reasonable expenses of his living at hotels or elsewhere for the purposes of and in relation to such election :

The expression “payment” includes any pecuniary or other reward ; and the expressions “pecuniary reward” and “money” shall be deemed to include any office, place, or employment, and any valuable security or other equivalent for money, and any valuable consideration, and expressions referring to money shall be construed accordingly.

* * * * *

* This Act is continued in force until the 31st day of December, 1886, by the Expiring Laws Continuance Act, 1885.

Appndx.

General interpretation of terms.

35 & 36 Vict. c. 33.

Appndx.

SCHEDULES.

FIRST SCHEDULE.

PART I.

PERSONS LEGALLY EMPLOYED FOR PAYMENT.

(See page 114.)

PART II.

LEGAL EXPENSES IN ADDITION TO EXPENSES UNDER
PART I.

(See page 114.)

PART III.

MAXIMUM FOR MISCELLANEOUS MATTERS.

(See page 115.)

PART IV.

MAXIMUM SCALE.

(See page 116.)

P A R T V .

GENERAL.

(See page 117.)

SECOND SCHEDULE.

PART I.

FORM OF DECLARATIONS AS TO EXPENSES.

(See page 118.)

PART II.

FORM OF DECLARATION WHERE CANDIDATE HAS BEEN
NOMINATED IN HIS ABSENCE.

(See page 122.)

48 VICT. CAP. 10.

An Act to extend the Hours of Polling at Parliamentary and Municipal Elections. [28th April, 1885.]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. At every parliamentary and every municipal election Hours of polling. within the meaning of this Act, the poll (if any) shall commence at eight o'clock in the forenoon, and be kept open till eight o'clock in the afternoon of the same day and no longer.

2. In this Act—

The expression "parliamentary election" means an Definitions. election for a county, city, borough, place, or combination of counties, cities, boroughs, and places (not being any university or universities), which returns any knight of the shire or member to serve in Parliament, and where the same is divided for the purpose of such return includes an election for such division :

The expression "municipal election" means an election of a councillor, commissioner of police, or auditor, or (in Ireland) an alderman or any commissioner, in any municipal borough or in any ward thereof :

The expression "municipal borough" means,—

As regards England, a borough subject to the Municipal Corporations Act, 1882 ; and 45 & 46 Vict. c. 50.

As regards Scotland, a burgh or town which has a town council or police commissioners ; and

As regards Ireland, a borough subject to the Act of the session of the third and fourth years of the reign of Her present Majesty, chapter one hundred and eight, intituled "An Act for the Regulation of Municipal Corporations in Ireland," and the Acts

Appndx.

17 & 18 Vict.
c. 103.

amending the same, and includes a place subject to the Act of the ninth year of the reign of King George the Fourth, chapter eighty-two, or to the Towns Improvement (Ireland) Act, 1854, or to any local Act providing for the election of commissioners in any town or place for purposes similar to the purposes of the above-mentioned Acts.

Repeal of
41 & 42 Vict.
c. 4 and
47 & 48 Vict.
c. 34.

3. Upon this Act coming into operation the Parliamentary Elections (Metropolis) Act, 1878, and the Elections (Hours of Poll) Act, 1884, shall be repealed, without prejudice to anything previously done in pursuance thereof.

Short title.

4. This Act may be cited as the Elections (Hours of Poll) Act, 1885.

Commence-
ment of Act.

5. This Act shall come into operation at the end of this present Parliament.

48 & 49 VICT. CAP. 23.

An Act for the Redistribution of Seats at Parliamentary Elections and for other purposes.

[25th June, 1885.]

35 & 36 Vict.
c. 33.

8. (4.) At a general Parliamentary election the polls (if any) for the divisions in a divided borough shall be taken on the same day, such day to be fixed by the returning officer of the borough, but nothing in this sub-section shall be taken to enlarge or extend the discretion vested in him by the Ballot Act, 1872, as to fixing the day of poll.

9. (3.) Subject to the provisions of this Act the members for each such division of a county shall be elected by persons qualified in the same manner, and the nomination and other proceedings at Parliamentary elections for such division shall be conducted in the same manner, as if such division were a separate constituency, and the law relating to Parliamentary elections shall apply to each such division as if it were a separate county.

11. The borough of Warwick shall be called Warwick **Appndx.**
and Leamington.

The law relating to the elections for the Parliamentary borough of Pembroke shall apply as if the places comprised in the area of the present Parliamentary borough of Haverfordwest were named in the Act of the session of the second and third years of the reign of King William the Fourth, chapter forty-five, as places sharing in the election of a member for Pembroke, and the borough shall be called Pembroke and Haverfordwest.

Provisions
as to War-
wick and
Pembroke.

12. (1.) Save as in this Act mentioned, in each of the Parliamentary boroughs constituted under this Act in which there is not, for the time being, a mayor, a returning officer shall be appointed in like manner as if such borough were included among the boroughs mentioned in Schedule (C.) to the Act of the session of the second and third years of the reign of King William the Fourth, chapter forty-five, intituled "An Act to amend the "Representation of the People in England and Wales," for which boroughs no persons are specified in such schedule as returning officers. Provided that every sheriff shall, as soon as may be after the passing of this Act, appoint a returning officer for each Parliamentary borough which is constituted under this Act, and is within his jurisdiction, and requires such appointment, and any returning officer so appointed shall hold his office until the time in the ensuing year fixed by law for the appointment of returning officers.

Returning
officers
in new
boroughs.

(2.) A returning officer of a Parliamentary borough appointed by a sheriff of a county in pursuance of section eleven of the said Act, or of any enactment (whether in this or any other Act) applying that section, need not be resident in the borough for which he is returning officer, provided that, if not so resident, he shall have an office therein for the purpose of his duties in relation to the registration of voters and to elections in such borough.

(3.) Where a Parliamentary borough is situate in more than one county, the returning officer appointed as above mentioned shall be appointed by the sheriff of the county in which the largest part of such Parliamentary borough in extent is situate.

(4.) Whereas by the Municipal Corporations Act, 1882, it is enacted that if there are more mayors than one within the boundaries of a Parliamentary borough, the mayor of that municipal borough to which the writ of election is directed shall be the returning officer : Be it therefore enacted that—

45 & 46 Vict.
c. 50.

In any such case the writ of election shall be directed to

Apondx.

the mayor of that one of the municipal boroughs to the mayor of which the writ has before the passing of this Act been directed, or if it has not been directed to any such mayor, then to the mayor of that one of the municipal boroughs which has the largest population according to the last census for the time being, and in any such case the town clerk of the municipal borough, the mayor of which is the returning officer, shall be the town clerk who, under the Registration Acts, is to receive the revised lists of Parliamentary voters from the revising barrister, and is to copy and print them and to deliver the register of voters to the returning officer, and the council of the same borough shall be the council to allow the expenses of such town clerk.

(5.) In any new borough constituted under this Act, the whole or the larger part of the area of which was before the passing of this Act comprised in the Parliamentary borough of Westminster, the high bailiff of Westminster shall be the returning officer for the new borough, and also the town clerk for the new borough within the meaning of the Registration Acts, and may, by writing under his hand, appoint a fit person to be his deputy for all or any of the purposes relating to Parliamentary elections in any such new borough, and anything in relation to a Parliamentary election authorized or required to be done by, to, or before the returning officer, may be done by, to, or before the high bailiff himself or such deputy.

(6.) Every such deputy shall, in so far as he acts as returning officer, be deemed to be included in the expression "returning officer" within the meaning of the law relating to Parliamentary elections.

As to
boroughs
divided into
divisions.

13. Where a Parliamentary borough is divided into divisions, the returning officer of such borough shall be the returning officer for each division, and may, by writing under his hand, appoint a fit person to be his deputy for all or any of the purposes relating to a Parliamentary election in any such division, and anything in relation to a Parliamentary election authorized or required to be done by, to, or before the returning officer (except the fixing of the day for taking the polls), may be done by, to, or before the returning officer himself or such deputy.

(2.) Every such deputy shall, in so far as he acts as returning officer, be deemed to be included in the expression "returning officer" within the meaning of the law relating to Parliamentary elections.

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(4.) In a borough divided into divisions, the election for two or more of such divisions shall be deemed to be the same election within the meaning of the enactments relating to personation and to voting, and the question which may be asked of voters at the poll shall be, "Have you already voted here or elsewhere at this election for the borough of
 " either in this or in any other division?" Appndx.

(5.) Subject to the provisions of this Act, where any Parliamentary borough is divided into divisions, the members for each division of such borough shall be elected by the persons registered in such division as voters for the borough, and the nomination and other proceedings at Parliamentary elections for such division shall be conducted in the same manner as if such division were a separate constituency, and the law relating to Parliamentary elections shall apply to each division as if it were a separate Parliamentary borough.

15. For the purposes of the provision of the schedule to the Corrupt and Illegal Practices Prevention Act, 1883, with respect to the voting of any paid election agent, sub-agent, polling agent, clerk, or messenger, a Parliamentary borough divided into divisions shall be deemed to form one borough, and any such agent, clerk, or messenger employed for payment at an election for any division may not vote in any other division of the borough. Adaptation of 46 & 47 Vict. c. 51, to divided borough.

16. (1.) The place of election in the case of a division of a county at large shall be in such town situate in the said county at large, or in a county of a city or town adjoining the said county at large, as the local authority having power to divide the division into polling districts, or in default of any determination by such local authority the returning officer may, from time to time determine, as being, in their or his opinion, the most convenient for the purposes of the election. Provided that in Ireland the place of election, in the case of a division of a county at large, shall from time to time be fixed by the returning officer, and shall be situate within the division or within a county of a city or town adjoining that division. As to place of election.

(2.) The place of election, in the case of a Parliamentary borough or any division of a Parliamentary borough, shall be such room or rooms in the said borough as the returning officer may from time to time determine, as being, in his opinion, the most convenient for the purposes of the election.

Appndx.

Adaptation
of writs.

21. All writs to be issued for Parliamentary elections, and all mandates, precepts, instruments, proceedings, and notices consequent upon such writs, or relating to Parliamentary elections or the registration of voters, shall be framed and expressed in such manner and form as may be necessary for carrying into effect the provisions of this Act, and of the Representation of the People Act, 1884.

48 & 49 Vict.
c. 3.

Election
laws to
remain in
force.

22. Subject to the provisions of this Act, the law now in force relating to Parliamentary elections shall remain in full force, and shall apply, as nearly as circumstances admit, to any constituency authorized by this Act to return a member or members to Parliament as if it had heretofore returned such members to Parliament.

Definitions.

24. In this Act, unless the context otherwise requires,—
The expression "member" means a member to serve in Parliament, and includes a knight of a shire.

The expression "Parliamentary election" means the election of a member or members.

The expression "law relating to Parliamentary elections" includes all laws, customs, and enactments relating to Parliamentary elections, inclusive of the law respecting the qualification and registration of voters.

30. (b.) The printed book or register containing the lists of voters, when revised, shall be delivered to the returning officer for the parliamentary county or borough to which such book or register relates on or before the seventh day of November, and shall be the register of persons entitled to vote for the county or borough at any election of a member to serve in Parliament which takes place after that day, or if this present Parliament is not then dissolved, then after the date of such dissolution, and before the first day of January one thousand eight hundred and eighty-seven.

Date for
registration
for 1885 in
Scotland.

31. In Scotland, notwithstanding anything contained in section thirteen of the Representation of the People Act, 1884, the register of voters made in the present year shall come into force on the first day of November one thousand eight hundred and eighty-five.

32. (c.) The book or books constituting the register of voters for every county and borough shall be signed and delivered to the sheriff or returning officer not later than the seventh day of November.

Such register shall commence and come into force on the seventh day of November, or if this present Parliament is not then dissolved, then on the day of such dissolution, and shall be the register of voters in force between the day on which it commences and the first day of January one thousand eight hundred and eighty-seven.

Appndx.
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48 & 49 VICT. CAP. 56.

An Act to amend the Law with respect to Corrupt Practices at Parliamentary Elections.

[6th August, 1885.]

WHEREAS doubts have arisen as to whether or not it be lawful for an employer of labour to permit electors in his regular employ to absent themselves from their employment for the purpose of recording their votes at any Parliamentary election, without making a deduction from the salary or wages of such electors for the time reasonably occupied in recording their votes :

And whereas it is expedient to remove such doubts :

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :

1. Nothing in the law relating to Parliamentary elections shall make it illegal for an employer to permit Parliamentary electors in his employment to absent themselves from such employment for a reasonable time for the purpose of voting at the poll at a Parliamentary election, without having any deduction from their salaries or wages on account of such absence, if such permission is, so far as practicable without injury to the business of the employer, given equally to all persons alike who are at the time in his employment, and if such permission is not given with a view of inducing any person to record his vote for any particular candidate at such election, and is not refused to any person for the purpose of preventing such person from recording his vote for any particular candidate at such election.

Conditions on which employer may give leave of absence to employés to record their votes.

2. This Act shall not be construed to make illegal any act which would not have been illegal if this Act had not passed.

Construction of Act.

3. This Act may be cited as the Parliamentary Elections Short title. Corrupt Practices Act, 1885.

Appndx.

48 & 49 VICT. CAP. 62.

*An Act to amend the Law relating to the Charges of
Returning Officers at Parliamentary Elections.*
[14th August, 1885.]

38 & 39 Vict.
c. 84. WHEREAS by the Parliamentary Elections (Returning Officers) Act, 1875, the returning officer may, if he thinks fit, require security to be given for the charges payable under the above Act in respect of an election to an amount not exceeding that specified in the Third Schedule to the Act, and by such Third Schedule it is provided as follows:—
“If at the end of the two hours appointed for the election, not more candidates stand nominated than there are vacancies to be filled up, the maximum amount which may be required is one fifth of the maximum according to the above scale:”

41 & 42 Vict.
c. 41. And whereas by the Parliamentary Elections Returning Officers Expenses (Scotland) Act, 1878, the returning officer may, if he thinks fit, require security to be given for the charges payable under the said Act in respect of an election to an amount not exceeding that specified in the schedule to the Act, and by such schedule it is provided as follows:—
“If, at the end of the two hours appointed for the election, not more candidates stand nominated than there are vacancies to be filled up, the maximum amount which may be required is one fifth of the maximum according to the above scale:”

And whereas it is expedient to reduce the said amount, and also to make further provisions with respect to the charges of returning officers in Scotland, and otherwise to amend the above Acts:

Be it therefore enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

Short title. 1. This Act shall be construed, so far as regards England and Ireland, as one with the Parliamentary Elections (Returning Officers) Act, 1875, and together with that Act may be cited as the Parliamentary Elections (Returning Officers) Acts, 1875 and 1885, and this Act shall be construed, so far as regards Scotland, as one with the Parliamentary Elections Returning Officers Expenses (Scotland) Act, 1878, and, together with that Act, may be cited as the Par-

liamentary Elections Returning Officers (Scotland) Acts, 1878 and 1885, and this Act may be cited separately as the Parliamentary Elections (Returning Officers) Act, 1885. Appndx.

2. In the Third Schedule to the Parliamentary Elections (Returning Officers) Act, 1875, "twenty-five pounds" shall be substituted for "one fifth of the maximum according to the above scale" in the portion thereof (above recited) relating to elections where not more candidates stand nominated than there are vacancies to be filled up.

Reduction of amount required in uncontested election by Third Schedule of 38 & 39 Vict. c. 84.

3. In the schedule to the Parliamentary Elections Returning Officers Expenses (Scotland) Act, 1878, "twenty-five pounds" shall be substituted for "one-fifth of the maximum, according to the above scale," in the portion thereof (above recited) relating to elections where not more candidates stand nominated than there are vacancies to be filled up.

Reduction of amount required in uncontested elections by schedule of 41 & 42 Vict. c. 41.

4. Notwithstanding the scale of charges laid down in the First Schedule of the Parliamentary Elections (Returning Officers) Act, 1875, it shall be lawful in any county constituency in England for the returning officer to charge four guineas for each presiding officer and thirty shillings for each clerk at a polling station.

Increase of returning officers' charges in certain cases.

5. Where a returning officer in Scotland is empowered to appoint a deputy, he may pay such deputy according to the scale set forth in the schedule to this Act, and such payments shall be allowed as expenses properly incurred by the returning officer within the meaning of the Parliamentary Elections Returning Officers Expenses (Scotland) Act, 1878, and of the Ballot Act, 1872.

Payments to deputy returning officers.

SCHEDULE.

Scale of Payment to Deputy Returning Officers.

| | £ | s. | d. |
|--|---|----|----|
| (1.) At a contested election. For every thousand or part of a thousand electors in the constituency | 1 | 10 | 0 |
| (2.) At an uncontested election. For every thousand or part of a thousand electors | 0 | 10 | 0 |

Appndx.

REJECTED.

410

| | | |
|---|-----------|--------|
| 1 | SARSONS. | |
| 2 | WOODWARD. | X C.W. |

638

| | | |
|---|-----------|---|
| 1 | SARSONS. | X |
| 2 | WOODWARD. | |

E. PREWS.

This ballot paper bears the name of the voter, E. Prews, which is to be found on the burgess roll.

844

| | | |
|---|-----------|-------------------------|
| 1 | SARSONS. | ⁼ Sarsons |
| 2 | WOODWARD. | |

Name of candidate written.

889

| | | |
|---|-----------|---------|
| 1 | SARSONS. | Sarsons |
| 2 | WOODWARD. | |

Name of candidate written.

VALID.**Appndx.**

117

| | | |
|---------------|-----------|--|
| X 1 | SARSONS. | |
| 2 | WOODWARD. | |

155

| | | |
|---------------|-----------|--|
| 1 X | SARSONS. | |
| 2 | WOODWARD. | |

174

| | | |
|---|-------------------|--|
| 1 | X SARSONS. | |
| 2 | WOODWARD. | |

183

| | | |
|---|-------------------|--|
| 1 | X SARSONS. | |
| 2 | WOODWARD. | |

Appndx.

190

| | | |
|-----|-----------|--|
| 1 X | SARSONS. | |
| 2 | WOODWARD. | |

433

| | | |
|---|-----------|----|
| 1 | SARSONS. | XX |
| 2 | WOODWARD. | |

505

| | | |
|--------|-----------|--|
| X 1 | SARSONS. | |
| 2 | WOODWARD. | |

641

| | | |
|---|-----------|---|
| 1 | SARSONS. | * |
| 2 | WOODWARD. | |

842

| | | |
|---|------------|--|
| 1 | X SARSONS. | |
| 2 | WOODWARD. | |

875

| | | |
|---|-----------|---|
| 1 | SARSONS. | / |
| 2 | WOODWARD. | |

911

| | | |
|---|----------------------|---|
| 1 | SARSONS. | X |
| 2 | WOODWARD. | |

911. The name "Woodward" has a pencil line through it, diagonally across the paper.

926

| | | |
|---|-----------|-----|
| 1 | SARSONS. | X ● |
| 2 | WOODWARD. | |

926. A X in pencil had evidently been rubbed with a damp finger.

928

| | | |
|---|-----------|-----|
| 1 | SARSONS. | X X |
| 2 | WOODWARD. | |

928. Had evidently been marked with a X in ink and folded up, thereby making a corresponding mark on the other part of the paper.

Appndx.

1290

| | | |
|---|-----------|-----|
| 1 | SARSONS. | |
| 2 | WOODWARD. | X X |

1364

| | | |
|---|---------------|---|
| 1 | SARSONS. X | X |
| 2 | WOODWARD. | |

1364, same as 928.

1374

| | | |
|---|-----------|---|
| 1 | SARSONS. | |
| 2 | WOODWARD. | X |

This paper was torn through the middle where indicated by the dotted line.

1391

| | | |
|---|-------------|--|
| 1 | SARSONS. | |
| 2 | X WOODWARD. | |

1413

| | | |
|---|------------|--|
| 1 | X SARSONS. | |
| 2 | WOODWARD. | |

Valid Ballot Papers.

251

Appendix

1426

| | | |
|---|-----------|-----|
| 1 | SARSONS. | X X |
| 2 | WOODWARD. | |

1632

| | | |
|---|-----------|-----|
| 1 | SARSONS. | |
| 2 | WOODWARD. | X ● |

1632, similar to 926.

1726

| | | |
|---|--------------|---|
| 1 | X SARSONS. X | X |
| 2 | WOODWARD. | |

2140

| | | |
|---|-----------|-----|
| 1 | SARSONS. | X I |
| 2 | WOODWARD. | |

2592 and 2619

| | | |
|-----|-----------|--|
| 1 | SARSONS. | |
| X 2 | WOODWARD. | |

Appndx.

3562

| | | |
|---|-----------|-----|
| 1 | SARSONS. | X P |
| 2 | WOODWARD. | |

3641 and 3642

| | | |
|---|-------------|--|
| 1 | SARSONS. | |
| 2 | X WOODWARD. | |

3672

| | | |
|---|-----------|-----|
| 1 | SARSONS. | |
| 2 | WOODWARD. | X X |

| | | |
|---|----------|---|
| 1 | HOME. | |
| 2 | McLAREN. | X |

The limbs of the X intersected in the space opposite McLaren's name—a good vote for McLaren.

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